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2  
3 BEFORE THE  
4 CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD  
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6 In the Matter of: ) **BOARD STAFF REPORT**  
7 )  
8 NORTH VALLEY COALITION OF )  
9 CONCERNED CITIZENS, ) APPEAL OF DECISION BY HEARING  
10 Appellant ) PANEL OF LOS ANGELES COUNTY  
11 vs. ) THAT THE LOS ANGELES COUNTY  
12 ) LOCAL ENFORCEMENT AGENCY  
13 ) ACTED PROPERLY IN AUTHORIZIING  
14 ) THE USE OF CONSTRUCTION AND  
15 LOS ANGELES COUNTY DEPARTMENT ) DEMOLITION DEBRIS AS  
16 OF ENFIRONMENTAL HEALTH, as the ) ALTERNATIVE DAILY COVER [BOARD  
17 Local Enforcement Agency ) AGENDA ITEM NO. 25]  
18 )  
19 Respondent; )  
20 ) PUBLIC RESOURCES CODE § 45030  
21 BROWNING-FERRIS INDUSTRIES OF )  
22 CALIFORNIA, ) Date: February 14, 2006  
23 ) Time: 1:30 p.m.  
24 Real Party in Interest )  
25 )  
26 )  
27 )

18 **INTRODUCTION**

19 The North Valley Coalition of Concerned Citizens (“NVC”), proceeding under Public  
20 Resources Code Section 45030,<sup>1</sup> has appealed to the California Integrated Waste Management  
21 Board (the “Board”) seeking the Board’s review of the decision of the Los Angeles County Solid  
22 Waste Facilities Hearing Board (the “Hearing Panel”), dated December 19, 2005, that the Los  
23 Angeles County Department of Health Services Solid Waste Program, serving as the local  
24 enforcement agency for Los Angeles County (the “LEA”), properly approved the amendment of  
25 the Report of Disposal Site Information (“RDSI”) for the Sunshine Canyon Landfill County  
26 Extension (SWFP No. 19-AA-0853) (the “Landfill”) which authorized the Landfill to utilize  
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1 processed construction and demolition wastes and materials (“C&D”) as alternative daily cover  
2 (“ADC”).

3 NVC assembled and submitted to the Board the record before the Hearing Panel  
4 (“Hearing Panel Record”). NVC and the Landfill operator, Browning-Ferris Industries of  
5 California (“BFI” or the “Operator”),<sup>2</sup> have submitted briefs containing arguments in support of  
6 their positions respecting the appeal, together with documentary evidence in the form of  
7 attachments or exhibits to their briefs. The briefs are referred to herein as the “NVC Hearing  
8 Brief” and the “BFI Hearing Brief.” To date, the LEA itself has not submitted any pleadings or  
9 evidence. The Hearing Panel Record, the briefs of the parties, this staff report and the exhibits  
10 that have been submitted are available on the Board’s web site with the agenda for the Board’s  
11 February 14, 2006 meeting.

12 The Board staff responsible for the preparation of this staff report are:

13 Howard Levenson, Deputy Director, Permitting and Enforcement Division  
14 Mark DeBie, P&E  
15 Suzanne Hambleton, P& E  
16 Bill Marciniak, P&E  
17 Michael Bledsoe, Legal Office

### 18 **STATUTORY FRAMEWORK FOR APPEALS**

19 If a party to an appeal before a hearing panel is not satisfied with the results of the  
20 hearing, it may seek the Board’s review. Section 45030(a). The Board then has three alternative  
21 responses that are relevant here:

- 22 1. Determine not to hear the appeal if the appellant has failed to raise substantial issues  
23 (§ 45031(a));
- 24 2. Determine to accept the appeal and decide the matter on the basis of the hearing panel  
25 record, the parties’ written arguments, or both (§ 45031(c)); or
- 26 3. Determine to accept the appeal and hold a hearing on the matter (§ 45031(c)).

27 It has been the Board’s practice in past proceedings, and it is staff’s recommendation in  
this case, that the Board first consider whether the appellant has raised substantial issues, and, if

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<sup>1</sup> Unless otherwise noted, all references to statutes are to the Public Resources Code.

1 so, to hear the matter and decide it on the basis of written and oral evidence submitted to the  
2 Board and arguments presented to the Board at the hearing.

3 The evidence that the Board may consider in reaching its decision is limited only to  
4 evidence that is relevant and that, in the Board's judgment, should be considered to effectuate  
5 and implement the policies of the Integrated Waste Management Act (the "IWMA," §§ 40000 et  
6 seq.). Section 45032(a). Accordingly, the Board's task in this hearing is to evaluate the relevant  
7 evidence submitted on the outstanding issues in dispute and to reach a decision that is consistent  
8 with, and helps carry out, the IWMA.

9 Based on the facts of the matter, the evidence before it and the applicable law, the Board  
10 may uphold the decision of the hearing panel or may overturn it, directing that appropriate action  
11 be taken by the enforcement agency (the "EA"). Section 45032(b)(1). The Board may take  
12 subsequent action itself if the EA fails to carry out the action directed by the Board. Section  
13 45032(b)(2).

14 After the hearing on the appeal has been completed, the Board must deliberate to  
15 determine its decision. The Board may conduct its deliberations in closed session, pursuant to an  
16 express exception to the State's open meeting procedures, provided at Section 11126(c)(3) of the  
17 Government Code.<sup>3</sup> In its discretion, however, the Board may elect to deliberate in public  
18 session.

19 It is the view of the Legal Office that deliberations such as these are best held in closed  
20 session. Although bound by the evidence and the law, Board members can more freely debate  
21 the merits of the various claims and arguments of the parties and how best to implement the  
22 policies of the IWMA in closed session than they can in open session. The presence of the  
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24 <sup>2</sup> BFI, as the owner and operator of the Landfill which is the subject of the NVC's appeal, is a "real party in interest"  
25 in this matter and has standing to participate fully.

26 <sup>3</sup> "Nothing in this article [the Bagley-Keene Open Meeting Act] shall be construed to do any of the  
27 following:...Prohibit a state body from holding a closed session to deliberate on a decision to be reached in a  
proceeding required to be conducted pursuant to Chapter 5 [the formal hearing procedures of the Administrative  
Procedures Act (the "APA")] or similar provisions of law." The Board's hearing is conducted under the informal  
procedures of the APA (see Gov't Code, § 11445.10, et seq.). Section 45030(e). Those informal procedures do not  
specify that deliberation shall occur in open court or in a public setting, hence do not conflict with the more specific

1 parties, stakeholders, members of the general public and the press during the Board's  
2 deliberations could hinder the unfettered consideration of the evidence and the arguments of the  
3 parties. As just one example of this, it might be difficult in public for some Board members to  
4 question the credibility of a witness or question the integrity of a document. Yet, that  
5 questioning could be important in reaching a sound, reasoned decision.

6 If the Board reaches its decision immediately following the hearing, it may announce the  
7 decision at that time, subject to the preparation of a subsequent written decision. If necessary,  
8 the Board may continue the hearing to entertain further argument or evidence, or may continue  
9 its deliberations until it can reach a decision.

10 The Board's decision in an appeal such as this is subject to review by the Superior Court  
11 in an administrative mandamus proceeding. Sections 45040, 45042.

### 12 13 **SUMMARY OF REGULATIONS GOVERNING THE USE OF ADC AT LANDFILLS**

14 Soil ("compacted earthen material") must be used as daily cover at municipal solid waste  
15 landfills, unless the EA and the Board have approved the use of an alternative material. Title 27,  
16 California Code of Regulations,<sup>4</sup> Sections 20680(a), 20690.<sup>5</sup> Under, Section 20690(b), the  
17 enforcement agency ("EA") must approve the use of any type of ADC prior to its use at a  
18 landfill.<sup>6</sup> Certain types of ADC have been evaluated by Board staff and determined to be  
19 generally acceptable alternatives to soil as daily cover when used in the manner provided in  
20 regulation. The Board has specified those particular ADC types in the ADC regulations. See  
21 Board Regulations, Section 20690(b)(1-11). Those types of ADC include, for example,  
22 geosynthetic blankets, foam, processed green material, sludge, compost materials, and C&D.  
23 Board Regulations, Section 20690(b)(1, 2, 3, 4, 8, 9). Note that, although listed as acceptable  
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25 provision in the Bagley-Keene Open Meeting Act. Indeed, the APA expressly provides that a statute applicable to a  
26 particular state agency prevails over a conflicting provision in the APA. Gov't Code, § 11415.20.

26 <sup>4</sup> Hereafter, all references to Board regulations found in Title 27 of the California Code of Regulations are described  
as "Board Regulations, Section \_\_\_\_."

27 <sup>5</sup> A copy of Board Regulations, Section 20690 is attached as Board Exhibit 1.

1 when properly utilized, each individual landfill's use of any of these specific types of ADC must  
2 still be approved by the EA before use. Board Regulations, Section 20690(b).

3 For ADC types not pre-approved in the regulations there is an additional step required  
4 beyond obtaining the regulators' approval – the landfill owner or operator must demonstrate that  
5 the use of an alternative material will satisfactorily “control vectors, fires, odors, blowing litter,  
6 and scavenging without presenting a threat to human health and the environment.” Board  
7 Regulations, Section 20690(a)(1). Such a demonstration project must be conducted prior to  
8 requesting the permanent use of the ADC material. The request for a demonstration must be  
9 approved by the LEA and the Board.

10 Typically a demonstration project will be conducted for a year to ensure that the material  
11 is evaluated through the full range of typical climatic conditions. At the end of the  
12 demonstration, the owner or operator prepares a report that can be used to support his or her  
13 request for ongoing use of the material as ADC if it has proved to be suitable. Pursuant to Board  
14 staff guidance to EAs and operators, provided in Advisory #48 (Revised March 1998), the  
15 operator should amend the Report of Facility Information<sup>7</sup> (“RFI”) and, if needed, the EA should  
16 amend the solid waste facilities permit to reflect the proposed use of ADC. An application  
17 package for an RFI amendment should be submitted to the EA as provided in Board Regulations,  
18 Section 21600, including only those items in the RFI that would change if the ADC is used. For  
19 ADC, this would normally include a revised description of cover operations in the Report of  
20 Disposal Site Information (RDSI) or Joint Technical Document (JTD) as provided in Board  
21 Regulations, Section 21600(b)(6).

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26 <sup>6</sup> “Specific Requirements - All types of ADC must be approved by the EA in writing prior to use at solid waste  
27 landfills as consistent with Title 27, California Code of Regulations, s. 21570 through s. 21686.” Board  
Regulations, Section 20690(b).

<sup>7</sup> A “Report of Facility Information” is a general term, applicable to all solid waste facilities. An RDSI, applicable  
only at landfills, is a type of RFI.

1 Amending the RFI may or may not require the revision of the facility's solid waste  
2 facilities permit.<sup>8</sup> An RFI amendment alone (without amending the solid waste facilities permit)  
3 is sufficient if the EA makes the required findings specified in Board Regulations, Section  
4 21665(c), as follows:

5 “(1) the proposed change is consistent with all applicable certified and/or adopted  
6 CEQA documents, or has been determined by the EA that the change would not  
7 create any adverse environmental impacts and is exempt from the requirements of  
8 CEQA;

9 (2) the EA has deemed the proposed change acceptable and consistent with, but  
10 not limited to, state minimum standards pursuant to Chapter 3 of this subdivision  
11 or applicable minimum standards in Title 14 (commencing with section 17200),  
and including financial assurances and operating liability criteria pursuant to  
Chapter 6 of this subdivision if applicable; and

(3) the changes do not conflict with the terms and conditions in the current  
SWFP.”

12 The EA must determine within 30 days from receiving the RFI amendment application  
13 whether to deny the request, approve the request through an RFI amendment or require that the  
14 request be submitted as a permit revision application. Board Regulations, Section 21665(f).  
15 Once the EA makes its determination, it must then notify the operator, the Board and applicable  
16 Regional Water Quality Control Board within five days of making their determination. Failure  
17 by the EA to act in a timely way will not result in an "automatic" approval of the request. In that  
18 circumstance, the applicant could appeal the inaction of the EA to the hearing panel or hearing  
19 officer pursuant to Section 44307.

## 20 21 **STATEMENT OF FACTS**

22 The parties have provided factual background information in their briefs.  
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27 <sup>8</sup> An operator of a solid waste facility may not make a “significant change in the design or operation” of the facility  
until it obtains a revised solid waste facilities permit from the EA, unless that change is already authorized under the  
existing permit. Section 44004(a).

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The question that NVC presented to the Hearing Panel was whether the LEA acted in accordance with the IWMA and Board regulations when it approved<sup>9</sup> the use of “Construction and Demolition Tailings” as ADC at the Landfill. Letter from Wayne Hunter, NVC, to Ken Murray, LEA, dated August 20, 2005, at Hearing Panel Record, Exhibit 3, p. 159. The Hearing Panel determined that the LEA’s action was in compliance with the IWMA and Board regulations, in that the evidence supported the LEA’s decision to approve the RDSI amendment without the revision of the solid waste facilities permit for the Landfill.<sup>10</sup> Hearing Panel Decision, pp. 3-4, attached hereto as Board Exhibit 2.

## ISSUES RAISED BY NVC IN ITS APPEAL

In its appeal to the Board, NVC raises the following issues that relate to the decision of the Hearing Panel:<sup>11</sup>

1. The ADC material the LEA approved was not, in fact, C&D, as defined in Board Regulations, Section 20690(b)(9)(B). NVC Hearing Brief, p. 6.
2. The LEA failed to assure that the operator of the Landfill had implemented a program, described in the RDSI, that the ADC in question would not be excessively contaminated by non-approved materials, as required by Board Regulations, Section 20690(a)(11).<sup>12</sup> NVC Hearing Brief, p. 7.
3. In amending the RDSI, the LEA failed to consider that the use of C&D as ADC at the Landfill, due to the high wind conditions sometimes present at the Landfill, might

<sup>9</sup> The LEA approved an amendment of the Landfill's RDSI on August 12, 2005, specifying that the Landfill could use C&D as ADC. Letter from Gerry Villalobos, LEA, to Frank Kiesler, BFI, dated August 12, 2005; NVC Hearing Brief, Exhibit B1, p. 3 [p.128-129 of 307] (the second set of page numbers refers to the pagination of the electronic copy of the document, available on the Board's web site). [Note that this letter does not include copies of the revised pages of the RDSI which describe the allowed uses of C&D as ADC. Those pages are included in Board Exhibit 7.]

<sup>10</sup> Board regulations allow an LEA to approve an amendment of an RDSI without requiring a revision of the SWFP where the proposed change is consistent with, or exempt from, the California Environmental Quality Act (“CEQA”), the proposed change is consistent with State Minimum Standards, and the change is not in conflict with any term or condition of the facility’s SWFP. Board Regulations, Section 21665 (c)(1-3). The Hearing Panel found the change in question satisfied the three criteria.

<sup>11</sup> NVC also argues that the Board should not hold its deliberations following this hearing in closed session. That issue is not related to the issue appealed from the Hearing Panel. It is addressed on page 2 of this staff report.

<sup>12</sup> As a corollary to this argument, NVC also argues that the LEA's decision would allow "fines" from any solid waste facility to be used at the Landfill, whether or not the Landfill RDSI prevented contamination. NVC Hearing Brief, p. 8. NVC does not cite to any facts or evidence supporting this argument, nor does it show that this issue was an issue before the Hearing Panel. In those circumstances, it is not necessary for the Board to consider the argument in its deliberations.

1 cause a threat to human health and the environment, thus failing to comply with  
2 Board Regulations, Section 20690(a)(1). NVC Hearing Brief, pp. 8-9.

### 3 ANALYSIS AND ARGUMENT

#### 5 I. NVC HAS RAISED SUBSTANTIAL ISSUES IN ITS APPEAL.

6 The first issue before the Board is whether NVC has raised “substantial issues” in its  
7 appeal. Section 45031(a). The phrase, “substantial issues,” is not defined in the IWMA or in  
8 Board regulations. On its face, the common meaning of the words lead us to believe that the  
9 Legislature, in employing those words, simply meant that the matter being appealed to the Board  
10 has some import to the Board in carrying out its statutory duties under the IWMA, and is not a  
11 trivial matter, nor merely frivolous or patently without significance.

12 NVC’s appeal meets this threshold. The three issues NVC has raised go directly to the  
13 meaning of the Board’s regulations respecting the use of ADC at landfills, and how EAs across  
14 the state should implement them.

#### 16 II. CONSIDERATION OF THE MERITS OF NVC’S APPEAL

##### 17 A. The Material Used at the Landfill as ADC Was Not C&D as Defined in Board 18 Regulations

19 NVC asserts that the material used as C&D at the Landfill does not meet the Board’s  
20 definition of “processed construction and demolition wastes and materials,” a material that may  
21 be used as ADC at landfills under certain circumstances. NVC Hearing Brief, p. 6. Board  
22 Regulations, Section 20690(b)(9)(B) define “processed construction and demolition wastes and  
23 materials” as follows:

24 “Processed construction and demolition wastes and materials used as alternative  
25 daily cover shall be restricted to the following materials: rock, concrete, brick,  
26 sand, soil, ceramics, cured asphalt, lumber and wood, wood products, roofing  
material, plastic pipe, plant material when commingled from construction work,  
and fines derived from processing the above materials.”

27 The gist of NVC’s argument on this point is that the LEA’s approval of C&D is flawed  
because it allowed “mixed” C&D to be used as ADC. NVC’s focus is misdirected. There is no



1 requirement in Board Regulations that the materials comprising C&D may not be mixed together  
2 before, during or after processing. See, Board Regulations, Section 20690(b)(9)(A-D). For  
3 example, brick, sand and ceramics can be processed together, then mixed with processed roofing  
4 material and wood, to create a material that qualifies as C&D. Fines (small particles) resulting  
5 from the processing of such materials may be included in the C&D used as ADC. Board  
6 Regulations, Section 20690(b)(9)(A). Clean soil may also be added to the mixture. Id.

7       However, it is equally clear that C&D may not be mixed with other forms of solid waste  
8 that are not included within the definition of C&D, and then be utilized as ADC, unless the  
9 operator undertakes a demonstration project to show that the material is suitable for use as ADC.  
10 Board Regulations, Section 20690(b). NVC asserts that the C&D materials used at the Landfill  
11 are mixed with “fines” resulting from the processing of solid wastes other than materials  
12 qualifying as C&D.<sup>13</sup> NVC Hearing Brief, p. 7. If true, then the material approved by the LEA  
13 as C&D is not, in fact, C&D as that term is defined in the Board Regulations. Such a material  
14 would be composed of materials listed as permitted components of C&D, as specified in the  
15 regulation, but would also include other, unpermitted materials. Those might include anything  
16 that would be processed at a municipal solid waste transfer and processing station, such a paper,  
17 garbage, green waste, glass and metals.

18       There is ample evidence in the record to support NVC’s assertion. According to  
19 testimony during the October 11, 2005 hearing before the Hearing Panel, since at least June  
20 2003,<sup>14</sup> the Landfill has been accepting “storm drain catch basin debris” that has been processed  
21 by a “Falcon” transfer station.<sup>15</sup> NVC Hearing Brief, Exhibit B3 (Transcript of the NVC Appeal  
22 Hearing before the Hearing Panel on October, 12, 2005), pp. 51-52 [p. 278 of 307]. At the  
23 request of the LEA, the Operator amended its RDSI in 2003 to identify the storm drain catch  
24 basin debris as green waste. Id. During a subsequent inspection at Falcon Refuse Center, the  
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26 <sup>13</sup> “[H]ere we have materials which are a literal ‘catch-all’ of just about anything from BFI’s Falcon  
27 facility....Nothing was presented [in the record] that assured that other materials were not processed over the same  
conveyor belt and the same screen.” NVC Hearing Brief, p. 7.

<sup>14</sup> NVC Hearing Brief, Exhibit B3, p. 54 [p. 279 of 307].

1 inspector observed that the “green waste” should be called “C&D” because that is what BFI, as  
2 the owner and operator of the transfer station, was calling it. NVC Hearing Brief, Exhibit B3, p.  
3 52 [p. 278 of 307]. However, the “C&D” was the same material as the “green waste” that Falcon  
4 Refuse Center was processing, that is, storm drain catch basin debris. NVC Hearing Brief,  
5 Exhibit B3, pp. 52-53 [p. 278 of 307].

6       Upon hearing this testimony, a member of the Hearing Panel inquired, “Why would  
7 Falcon call it C&D if it was just out of the storm drain?” The Landfill Operator responded, “...it  
8 was debris basin cleanout they were processing and over time they expanded it to include  
9 C&D...” NVC Hearing Brief, Exhibit B3, p. 53 [p. 278 of 307]. The Hearing Panel member  
10 inquired further, “So they added C&D in with the storm drain debris?” “Correct. Correct.”, the  
11 Operator replied. NVC Hearing Brief, Exhibit B3, pp. 53 [p. 278 of 307].

12       The Operator instituted the 2005 RDSI amendment, the amendment that NVC is  
13 challenging, to reflect that the material it is using as ADC is C&D. NVC Hearing Brief, Exhibit  
14 B3, pp. 53 [p. 278 of 307]. The LEA approved the RDSI amendment on August 12, 2005,  
15 authorizing the Operator to use this material as ADC. Letter from Gerry Villalobos, LEA, to  
16 Frank Kiesler, BFI, dated August 12, 2005; NVC Hearing Brief, Exhibit B1, p. 3 [p.128-129 of  
17 307].

18       Section 20690, with its detailed description of C&D, has been in effect in its present form  
19 since July 23, 2004. “Storm drain catch basin debris” is not a permitted component of C&D, as  
20 defined in Section 20690(b)(9)(B). Accordingly, the LEA erred in approving it. Instead of  
21 finding that the material qualified as C&D, and thus was authorized for use under Board  
22 Regulations, Section 20690(b)(9), the LEA should have required the operator to conduct a  
23 demonstration project under Board Regulations, Section 20690(b).

24       Subsequent observations by Board staff tend to corroborate statements made by and on  
25 behalf of the Operator during the October 11 hearing. Board staff members Suzanne Hambleton  
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27 <sup>15</sup> “Falcon” refers to Falcon Refuse Center, Inc. (SWIS No. 19-AR-0302), an MSW transfer/processing station  
owned by BFI in the City of Los Angeles

1 and Bill Marciniak<sup>16</sup> visited the Falcon Refuse Center on January 25, 2006 to observe the nature  
2 of the material that Falcon processes and delivers to the Landfill as ADC made from C&D. Staff  
3 found that, on that particular day, the material Falcon was processing was not exclusively C&D.  
4 The material included substantial quantities of green waste, litter, plastic and mixed debris.

5 Two photos<sup>17</sup> of the incoming material, awaiting processing, that are described by Falcon  
6 Refuse Center as “C&D” are attached as Board Exhibit 3. The material shown is clearly not  
7 C&D as the term is defined in Board Regulations, Section 20690(b)(9)(B). When the material  
8 has been processed, there is a substantial quantity of residual material that is not considered  
9 C&D. Board Exhibit 4 shows the “C&D” material that remains as residual after processing.  
10 Board Exhibit 5 shows “C&D” material that has been processed, but will be run through the  
11 sorting process again over a one-half inch screen. The Falcon Refuse Center representative  
12 accompanying Ms. Hambleton and Mr. Marciniak during their visit stated that much of the  
13 material delivered to the transfer station as C&D for processing comes from the LA City  
14 Maintenance District yards and that the fines that result from the processing are collected and  
15 sent to the Landfill for use as ADC. While visiting the Landfill on January 26, 2006, Ms.  
16 Hambleton and Mr. Marciniak observed piles of the finished material from Falcon Refuse  
17 Center, destined for use as ADC at the Landfill. See Board Exhibit 6. After processing, the  
18 material looks reasonably clean (in photo no. 013, ADC processed at Falcon is on the right side  
19 of the picture). Because the fines are the product resulting from processing miscellaneous solid  
20 waste, including numerous materials expressly prohibited in C&D, the fines are not properly  
21 considered C&D. If the Landfill wishes to use this material as ADC, it must conduct a  
22 demonstration project as described in Board Regulations, Section 20690(b).

23 Based on the evidence before the Hearing Panel, it is Board staff’s view that the Hearing  
24 Panel did not have a substantial basis for concluding that the LEA had properly approved the  
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26 <sup>16</sup> Ms. Hambleton and Mr. Marciniak will be available at the Board hearing on this appeal to testify as to their  
inspection of the Falcon Refuse Center if any of the parties so desire.

27 <sup>17</sup> The photographs attached as Board Exhibits 3, 4 and 5 were taken by Suzanne Hambleton on January 26, 2006 at  
the Falcon Refuse Center. The photographs attached as Board Exhibit 6 were taken by Suzanne Hambleton on  
January 26, 2006 at the Landfill.

1 amendment of the RDSI in that the material described as C&D in the RDSI was not, in fact,  
2 C&D as defined in Board Regulations, Section 20690(b)(9)(B). Staff recommends that the  
3 Board overturn the Hearing Panel with respect to its decision in favor of the LEA as to this point.

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5 B. The LEA Failed To Assure That the Operator of the Landfill Had  
6 Implemented a Program, Described in the RDSI, That the ADC in Question  
Would Not Be Excessively Contaminated by Non-Approved Materials.

7 Board Regulations, Section 20690(a)(11) require that the landfill owner or operator  
8 “implement a program described in the Report of Disposal Site Information...to minimize  
9 contamination of alternative daily cover with wastes not included within the individual  
10 alternative daily cover material types specified [in the ADC regulations]...and wastes that would  
11 conflict with the performance requirements [for materials authorized for use as ADC].”

12 NVC asserts that the LEA did not require the Landfill or the Falcon Refuse Center, which  
13 provided ADC to the Landfill, to carry out such a program. NVC Hearing Brief, p. 7. We are  
14 unable to find any such program referenced in the materials submitted by the parties. At the time  
15 of the hearing before the Hearing Panel (October – December 2005), the RDSI applicable to the  
16 Landfill was the amended RDSI, approved by the LEA on August 12, 2005. Letter from Gerry  
17 Villalobos, LEA, to Frank Kiesler, BFI, dated August 12, 2005; NVC Hearing Brief, Exhibit B1,  
18 p. 3 [p.128-129 of 307]. It does not appear from the Hearing Panel Record and the documents  
19 submitted by the parties that the amended RDSI has been provided.<sup>18</sup> NVC does not cite to the  
20 amended RDSI to provide evidence for its argument that the RDSI does not contain a program to  
21 preclude the contamination of C&D intended for use as ADC with other prohibited materials.  
22 Board staff submits the amended RDSI as Board Exhibit 7, attached hereto (the “Amended  
23 RDSI”).<sup>19</sup>  
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26 <sup>18</sup> Exhibit 8 in the Hearing Panel Record includes pages that appear to be drafts of the revised pages of the RDSI.  
27 The pages are annotated, “Pending Approval not in effect currently (9/27/05) K.M.” The Board has included the  
Amended RDSI as Board Exhibit 7 to this staff report. See Hearing Panel Record, Exhibit 8, pp. 694-698 of 1153.

<sup>19</sup> The LEA submitted the Amended RDSI to the Board under cover of its letter, dated August 18, 2005, from Gerry Villalobos to Mark DeBie.

1           Among the materials submitted to the Board by the parties, we are unable to find any  
2 documentation of any such program to avoid contamination of the material to be used for ADC.  
3 The document referred to as the “current facility RDSI” in the Hearing Panel Record (Exhibit 7  
4 [pp. 520, et seq. or 1153]), contains no such program. The document referred to as “a document  
5 of proposed revisions to the RDSI” in the Hearing Panel Record (Exhibit 8 [pp. 694-698 of  
6 1153]), contains no such program. There is no such program in the Amended RDSI. Board  
7 Exhibit 7. Moreover, it is apparent from the testimony of the Operator at the October 11, 2005  
8 hearing before the Hearing Panel that the Operator did not know exactly what was contained in  
9 the material it received from the Falcon Refuse Center and used as ADC. After the Landfill had  
10 amended its RDSI to allow the use of green waste as ADC, its supplier, Falcon Refuse Center,  
11 began processing C&D and delivering it to the Landfill as ADC. The Operator did not know  
12 when it began receiving C&D instead of green waste. Falcon had not reported its change in  
13 operations to the Landfill Operator. See NVC Hearing Brief, Exhibit B3, pp. 79-81 [pp. 285 of  
14 307].

15           We recognize that Mr. Ken Murray, the Chief Environmental Health Specialist for the  
16 LEA, testified at the October 11 hearing before the Hearing Panel that he considered whether  
17 prohibited materials were removed from construction and demolition debris before it was  
18 processed at the Falcon Refuse Center, and determined that they were. NVC Hearing Brief,  
19 Exhibit B3, pp. 104-106 [pp. 291-292 of 307]. However, this discussion was limited to the  
20 removal of hazardous materials from debris received at the transfer station. The point NVC  
21 makes, and with which we concur, is that the Landfill did not have a program to limit the  
22 materials being processed as C&D from being contaminated with non-C&D wastes, that is,  
23 wastes not authorized in Board Regulations, Section 20690(b)(9)(b).

24           Based on the evidence before the Hearing Panel, it is Board staff’s view that the Hearing  
25 Panel did not have a substantial basis for concluding that the LEA had required the Operator to  
26 implement a program, described in the RDSI, to minimize contamination of the C&D with  
27 wastes not included within the list of materials permitted by Board Regulations, Section

20690(a)(11). Staff recommends that the Board overturn the Hearing Panel with respect to its decision in favor of the LEA as to this point.

C. The LEA Considered Whether the Use of C&D as ADC at the Landfill, Due to the High Wind Conditions Sometimes Present at the Landfill, Might Cause a Threat to Human Health and the Environment, and Determined That It Would Not Cause Such a Threat.

The Board's regulations governing the use of ADC contain a series of general requirements applicable to all uses of ADC (subdivision (a) of Section 20690) and a series of specific requirements applicable to the use of particular materials as ADC (subdivision (b) of Section 20690). See Board Regulations, Section 20690. The first of those general requirements provides that:

"Alternative materials...for daily cover...may be approved by the EA with concurrence by the CIWMB if the owner or operator demonstrates that the alternative material...controls vectors, fires, odors, blowing litter, and scavenging without presenting a threat to human health and the environment." Board Regulations, Section 20690(a)(1).

The second general requirement provides, in part, that:

"Alternative daily cover...shall be placed over the entire working face at the end of each operating day or at more frequent intervals to control vectors, fires, odors, blowing litter, and scavenging without presenting a threat to human health and the environment." Board Regulations, Section 20690(a)(2).

As noted by NVC (NVC Hearing Brief, p. 9), even when a specifically authorized ADC material is used for which no demonstration project is necessary, the specific materials must be used in accord with the provisions of subdivision (a) of Section 20690. Board Regulations, Section 20690(b). Thus, the use of geosynthetic fabric, foam products, processed green material, C&D, shredded tires or other named ADC types are permitted only when they can be used in the manner specified in subdivision (a), and in particular, subdivisions (a)(1) and (a)(2). If the ADC type, although listed, does not serve to "control vectors, fires, odors, blowing litter, and

1 scavenging without presenting a threat to human health and the environment,” the operator may  
2 not use it. Board Regulations, Section 20690(a)(2).

3 It appears there is consensus that the Landfill is situated in a windy location. NVC  
4 Hearing Brief Exhibit B3, p. 105 [p. 291 of 307]. There is evidence in the record that the LEA  
5 considered the windy nature of the location and the potential that the use of C&D as ADC might  
6 cause a threat to human health and the environment. At the October 11, 2005 hearing before the  
7 Hearing Panel, Mr. Ken Murray, the Chief Environmental Health Specialist for the LEA,  
8 testified that, before approving the use of C&D as ADC at the Landfill, he evaluated whether the  
9 dust suppression program at the Landfill was effective, and concluded that it was. NVC Hearing  
10 Brief, Exhibit B3, p. 105 [p. 291 of 307].

11 Based on this testimony, it is Board staff’s view that the Hearing Panel had a substantial  
12 basis for concluding that the LEA properly determined that the use of ADC at the Landfill would  
13 not cause a threat to human health and the environment due to the windy conditions often present  
14 at the Landfill. Staff recommends that the Board uphold the Hearing Panel with respect to its  
15 decision in favor of the LEA as to this point.

### 16 17 III. CONSIDERATION OF WHETHER THE LEA PROPERLY REGULATED THE 18 USE OF ADC AT THE LANDFILL

19 Above, we have addressed those of the issues raised by NVC in its Hearing Brief that  
20 pertain to the decision of the Hearing Panel. NVC raised one other relevant issue in its notice of  
21 appeal to the Board that we wish to present to the Board for its consideration. It is appropriate  
22 for staff to raise this issue on its own since the Board, in deciding this appeal, may consider any  
23 relevant evidence that it believes should be considered to effectuate and implement the policies  
24 of the IWMA. Section 45032(a).

25 In its letter notifying the Board of its appeal, NVC states that one of its claims of LEA  
26 error was that the LEA failed to require a proper amendment of the Landfill’s RDSI before it  
27 approved the use the C&D. Letter from Kelley T. Smith, attorney for NVC, to Michael Bledsoe,  
attorney for the Board, dated December 30, 2005, p. 1, attached hereto as Board Exhibit 8. As

1 we have described above, the EA must approve any use of ADC before an operator commences  
2 its use by approving an amendment of the RDSI and, if necessary, by revising the landfill's solid  
3 waste facilities permit. Board Regulations, Sections 20690(b), 21600, 21665. In the case of the  
4 Landfill, the Operator did not apply for, and the LEA did not require, the amendment of the  
5 Landfill's RDSI before the Landfill used C&D as ADC. Mr. William Marciniak, a Board staff  
6 member, conducted an inspection of the Landfill on April 1, 2005. (A copy of the Board's Site  
7 Inspection Report, dated April 1, 2005, under cover of a letter from Suzanne Hambleton, Board  
8 staff, to Ken Murray, LEA, dated April 28, 2005, is attached as Board Exhibit 9.) Mr. Marciniak  
9 found that the Landfill was accepting and utilizing as ADC a mixture of green waste and  
10 construction and demolition materials tailings. The C&D materials were thought to have been  
11 processed at the Falcon Refuse Center. However, the then-current RDSI allowed only  
12 geosynthetic blankets and processed green waste as ADC at the Landfill. Mr. Marciniak noted  
13 this as a violation in his Site Inspection Report. Board Exhibit 9, p. 2.

14 After the LEA received the Board's Site Inspection Report, the Operator began an effort  
15 to amend the RDSI to authorize the Landfill to utilize C&D as ADC. The LEA approved the  
16 amendment to the RDSI on August 12, 2005.<sup>20</sup> Yet, the Landfill had been accepting material  
17 purported to be C&D since at least April 2005, according to the Site Inspection Report, and since  
18 some unspecified number of years earlier, according to testimony by Mr. Frank Kiesler, a  
19 representative of the Operator, during the Hearing Panel's October 11, 2005 hearing. NVC  
20 Hearing Brief, Exhibit B3, pp. 80-81[285 of 307]. The LEA did not direct the Landfill Operator  
21 to stop using C&D as ADC until July 19, 2005. Letter from Gerry Villalobos, LEA, to Frank  
22 Kiesler, operator, dated July 19, 2005. Hearing Panel Record, Exhibit 3, p. 201 of 1153.

23 In light of these facts, it is apparent that the Operator used as ADC the material it claimed  
24 was C&D without having obtained the necessary approval from the LEA. However, because that  
25 argument has not been raised by NVC in its appeal to the Board and was not part of the Hearing  
26

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27 <sup>20</sup> Letter from Gerry Villalobos, LEA, to Frank Kiesler, BFI, dated August 12, 2005. NVC Hearing Brief, Exhibit B1, p. 3 [p.128 of 307].



1 Panel's decision, it would not be appropriate for the Board to base its decision in this matter on  
2 that particular shortcoming. However, if the Board, on another basis or bases, determines to  
3 overturn the decision of the LEA, it would be appropriate for the Board to direct that the LEA  
4 require an appropriate amendment of the RDSI before allowing the Operator to use any new  
5 ADC materials, beyond those approved in the RDSI.

### 6 7 CONCLUSION

8 For the reasons stated above, and on the basis of the evidence submitted to the Board,  
9 staff recommends that the Board overturn the decision of the Hearing Panel on the following  
10 specific grounds:

- 11 1. The C&D material presently in use as ADC at the Landfill does not, and did not at the  
12 times relevant to NVC's appeal to the Hearing Panel, meet the requirements for C&D  
13 as defined in Board Regulations, Section 20690(b)(9)(B), namely, it contained and  
14 contains solid waste other than "rock, concrete, brick, sand, soil, ceramics, cured  
15 asphalt, lumber and wood, wood products, roofing material, plastic pipe, plant  
16 material when commingled from construction work, and fines derived from  
17 processing the above materials."
- 18 2. The RDSI amendment that the LEA approved which authorized the Landfill to utilize  
19 C&D as ADC did not contain a program that would help prevent the contamination of  
20 the C&D to be used as ADC with wastes not allowed to be used as C&D.

21 Respectfully submitted,

22 \_\_\_\_\_  
23 Michael L. Bledsoe, Staff Counsel  
24  
25  
26  
27

LIST OF EXHIBITS

1. Section 20690, Title 27, California Code of Regulations
2. Hearing Panel Decision, dated December 19, 2005
3. Copies of Photos
4. Copies of Photos
5. Copies of Photos
6. Copies of Photos
7. Revised RDSI, dated August 18, 2005
8. Notice of Appeal by NVC, dated December 30, 2005
9. State Inspection Report, dated April 1, 2005 (together with cover letter dated April 28, 2005)



## Welcome to the online source for California Code of Regulations

27 CA ADC § 20690

27 CCR s 20690

Cal. Admin. Code tit. 27, s 20690

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS  
TITLE 27. ENVIRONMENTAL PROTECTION  
DIVISION 2. SOLID WASTE  
SUBDIVISION 1. CONSOLIDATED REGULATIONS FOR TREATMENT, STORAGE, PROCESSING  
OR DISPOSAL OF SOLID WASTE  
CHAPTER 3. CRITERIA FOR ALL WASTE MANAGEMENT UNITS, FACILITIES, AND DISPOSAL  
SITES

SUBCHAPTER 4. CRITERIA FOR LANDFILLS AND DISPOSAL SITES  
ARTICLE 2. ALTERNATIVE DAILY COVER MATERIAL AND BENEFICIAL REUSE

This database is current through 01/20/2006, Register 2006, No. 3.

s 20690. CIWMB -Alternative Daily Cover. [T14: s17682, s17258.21(b)]

(a) General Requirements

(1) Alternative materials of alternative thickness for daily cover (other than at least six inches of earthen material) for municipal solid waste landfill units may be approved by the EA with concurrence by the CIWMB, if the owner or operator demonstrates that the alternative material and thickness control vectors, fires, odors, blowing litter, and scavenging without presenting a threat to human health and the environment.

(2) Alternative daily cover alone, or in combination with compacted earthen material, shall be placed over the entire working face at the end of each operating day or at more frequent intervals to control vectors, fires, odors, blowing litter, and scavenging without presenting a threat to human health and the environment. For the purposes of this section, the operating day shall be defined as the hours of operation specified in the solid waste facility permit, and may extend for more than 24 hours if operations are continuous. Waste-derived alternative daily cover shall be processed prior to spreading and compacting on the working face and applied and compacted to ensure that all exposed waste is completely covered by ADC and that there are no open voids within the cover material or in contact within the underlying wastes. Waste materials used as ADC that already meet the grain-size specifications of these regulations, or an alternative grain size approved by the EA and CIWMB pursuant to this section, need not be processed if the EA determines that the material as received at the landfill is adequate to perform the functions of daily cover and meets the appropriate specifications.

(3) Should the application of alternative daily cover become impracticable or contribute to conditions hazardous to public health and safety and the environment, the owner or operator shall terminate such use and revert to the use of compacted earthen cover material in accordance with s20680. For the purposes of this section, impracticable conditions are those which make placement of alternative daily cover difficult due to adverse climatic or other conditions such that the performance requirements of ¶(a)(2) cannot be met.

(4) The owner or operator shall place compacted earthen material over the entire working face at the end of any operating day preceding a period of time greater than 24 hours when the facility is closed, unless procedures as required by the EA are in place to ensure that the requirements of ¶(a)(2) and (a)(3) are met. A stockpile of earthen cover material and required equipment shall be available to ensure a corrective response to violation of ¶(a)(2) and (a)(3). Whenever an EA determines that an application of ADC is not meeting the requirements of this standard, the EA may direct the operator to immediately cover the ADC with soil. The continuing use of ADC that has been determined by the EA as not meeting the requirements of this section may become the basis for the EA to take enforcement action to seek compliance with the requirements of this section.

(5) The owner or operator shall maintain a record of waste derived alternative daily cover in accordance with Title 14, California Code of Regulations, §18800 et. seq. The records shall be available for inspection by authorized representatives of the EA, the local health agency, and the CIWMB during normal business hours and retained in the operating record near the site or in an alternative location approved by the EA.

(6) For waste classification, composition, and liquid percolation requirements of alternative daily cover, refer to the SWRCB requirements set forth in §20705.

(7) Waste derived materials used as alternative daily cover shall be restricted to quantities no more than necessary to meet the performance requirements of §(a)(2), or as specified in subdivision (b) of this section. Should the CIWMB determine after consulting with the EA that an owner or operator violated this standard, the owner or operator shall revise the applicable reports to reflect the overuse as disposal, and pay the required Board of Equalization (BOE) disposal tipping fees for the amount of overuse. EAs shall not be responsible for making such determinations.

(8) Compost, co-compost, and chemically fixed sewage sludge and water treatment sludge only, that meet the performance standards for cover material, shall be limited to up to 25% of landfill cover materials or landfill cover extenders as required under Public Resources Code (PRC) 42245. For the purposes of this section, "chemically fixed sewage sludge" means solid and semisolid residue generated during the treatment of domestic sewage. The 25% limit shall apply on a quarterly basis to the total daily and intermediate cover or cover extender use. For the purpose of this section, landfill cover extenders shall mean compost, co-compost, or chemically fixed sewage sludge blended or mixed with soil.

(9) Storage and handling of waste derived materials at the landfill for use as alternative daily cover shall be conducted in a manner to protect public health and safety and the environment, and control vectors, fires, odors, blowing litter, scavenging, and nuisances.

(10) The EA shall apply this section to disposal facilities other than municipal solid waste landfill units as necessary to control vectors, fires, odors, blowing litter, scavenging, and nuisances without presenting a threat to human health and the environment. This requirement shall also apply to municipal solid waste landfills which qualify for a delay in the general compliance date or additional flexibility as specified in 40 CFR Part 258.

(11) The owner or operator shall implement a program described in the Report of Disposal Site Information as required by §21600(b)(6) to minimize contamination of alternative daily cover with wastes not included within the individual alternative daily cover material types specified in subdivision (b) of this section and wastes that would conflict with the performance requirements of §(a)(2).

#### (b) Specific Requirements

All types of ADC must be approved by the EA in writing prior to use at solid waste landfills as consistent with Title 27, California Code of Regulations, §21570 through §21686. Proposed uses of alternative daily cover materials not specified below shall be subject to site specific demonstration projects approved by the EA with concurrence by the CIWMB to establish suitability as daily cover. Unless otherwise specified in this section, alternative daily cover use by blending listed materials other than using side-by-side on the working face, or layering on top of one another listed materials, shall require site-specific demonstration projects approved by the EA with concurrence by the CIWMB as required by subsection (a)(1). Site specific demonstration projects are not required for the following materials used as specified and in accordance with subdivision (a) of this section.

##### (1) Geosynthetic Fabric or Panel Products (Blankets)

(A) Geosynthetic blanket products shall be removed from the waste and the waste shall be covered with new waste or approved cover materials within 24 hours of product placement, unless the product is intended to be nonreusable, or has been approved by the EA for continuous use beyond 24 hours.

##### (2) Foam Products

(A) Foam products shall not be applied when there is precipitation or when there is a local forecast of greater than 40% chance of precipitation within 8 hours of application time in the vicinity of the landfill.

(B) Foam products shall be covered with waste or other approved cover materials within 72 hours of application, unless a shorter time period is required by the EA to meet the requirements of ¶(a)(2) and (a)(3) of this section.

### (3) Processed Green Material

(A) For the purposes of this section, processed green material means any plant material that is either separated at the point of generation, or separated at a centralized facility that employs methods to minimize contamination. Green material includes, but is not limited to, yard trimmings, untreated wood wastes, paper products, and natural fiber products. Green material does not include treated wood waste, mixed demolition or mixed construction debris, manure and plant waste from the food processing industry, alone or blended with soil. Processed green material may include varying proportions of wood waste from urban and other sources and shall be ground, shredded, screened, source separated for grain size, or otherwise processed.

(B) Green material used for alternative daily cover shall be processed prior to being applied to the working face unless the green material to be used as alternative daily cover already meets the grain size specifications. Prior to spreading and compacting on the working face, processed green material shall comply with a grain size specification by volume of 95% less than 6 inches. Alternative processing and grain size specification requirements may be approved by the EA if the EA determines that the alternative meets the performance requirements of ¶(a)(2) and (a)(3) of this section and the CIWMB concurs.

(C) Processed green material shall be restricted to a minimum compacted thickness of 6 inches and average compacted thickness of less than or equal to 12 inches.

(D) Processed green material placed as cover shall not be exposed for greater than 21 days.

### (4) Sludge and Sludge-Derived Materials

(A) Public contact with sludge or sludge-derived materials, either alone or blended with soil, ash, processed green material, or stabilization agents such as lime, lime kiln dust, or cement kiln dust, shall be prohibited. This prohibition shall apply to staging, processing, tipping, and cover placement areas.

(B) Sludge or sludge-derived materials, either alone or blended with soil, processed green material, ash, or stabilization agents such as lime, lime kiln dust, or cement kiln dust, shall form a compacted material which can be placed without forming open voids or causing material to be tracked off the working face area.

(C) Sludge or sludge-derived materials shall be restricted to a minimum compacted thickness of 6 inches and average compacted thickness of less than or equal to 12 inches.

### (5) Ash and Cement Kiln Dust Materials

(A) Ash and Cement Kiln Dust, either alone or blended with earthen material or stabilization agents, shall form a compacted material which can be placed without forming open voids or causing material to be tracked off the working face area. For the purposes of this section ash means the nonhazardous residue from the combustion of material or the hazardous residue which may be managed as a nonhazardous waste in accordance with Title 22 California Code of Regulations ss 66260.200(f) or 66260.210.

(B) Ash and Cement Kiln Dust, either alone or blended with earthen material or stabilization agents shall be used as alternative daily cover in a manner to minimize the creation of dust.

(C) Ash and Cement Kiln Dust, either alone or blended with earthen material or stabilization agents, shall be restricted to a minimum compacted thickness of 6 inches and average compacted thickness of less than 12 inches.

### (6) Treated Auto Shredder Waste

(A) Auto shredder waste shall be treated pursuant Title 22, California Code of Regulations, s 66268.106(a)(1),

(B) Treated auto shredder waste used for alternative daily cover shall be restricted to a minimum compacted thickness of 6 inches and average compacted thickness of less than 24 inches.

(7) Contaminated Sediment, Dredge Spoils, Foundry Sands, Energy Resource Exploration and Production Wastes

(A) Contaminated sediment, dewatered dredge spoils, foundry sands, or processed energy resource exploration and production wastes shall be restricted to a minimum compacted thickness of 6 inches and average compacted thickness of less than 12 inches. Such materials shall form a compacted material which can be placed without forming open voids or causing material to be tracked off the working face area.

(8) Compost Materials

(A) Except as provided in ¶(b)(8)(B), of this section, compost shall meet the environmental health standards of Title 14, California Code of Regulations, Division 7, Chapter 3.1, Article 7.

(B) Public contact shall be precluded from cover staging, processing, tipping, and placement areas for compost which does not meet the environmental health standards of Title 14, California Code of Regulations, Division 7, Chapter 3.1, Article 7.

(C) Compost materials shall be restricted to a minimum compacted thickness of 6 inches and average compacted thickness of less than or equal to 12 inches. Compost materials shall comply with a grain size specification by volume of 95% less than 6 inches.

(9) Processed Construction and Demolition Wastes and Materials

(A) Processed construction and demolition wastes and materials shall be ground, pulverized, shredded, screened, source separated, or otherwise processed, alone or mixed with soil in a manner to provide a compacted material free of open voids when applied to meet the performance requirements as alternative daily cover.

(B) Processed construction and demolition wastes and materials used as alternative daily cover shall be restricted to the following materials: rock, concrete, brick, sand, soil, ceramics, cured asphalt, lumber and wood, wood products, roofing material, plastic pipe, plant material when commingled from construction work, and fines derived from processing the above materials.

(C) Construction and demolition wastes shall be processed prior to being applied to the working face. Prior to spreading and compacting on the working face, these materials shall comply with a grain size specification by volume of 95% less than 12 inches and 50% less than 6 inches as determined by the EA. The CIWMB shall provide technical assistance in making this determination if requested by the EA. Alternative processing and grain size specification requirements may be approved by the EA if the EA determines that the alternative meets the performance requirements of ¶(a)(2) and (a)(3) of this section and the CIWMB concurs.

(D) Construction and demolition wastes shall be restricted to a minimum compacted thickness of 6 inches and average compacted thickness of less than 18 inches.

(10) Shredded Tires

(A) Shredded tires used as daily cover alone or mixed with soil shall be shredded such that 50% by volume is smaller than 6 inches in length and no individual pieces are greater than 12 inches in length.

(B) Shredded tires used as alternative daily cover without admixed soil shall not be applied when there is precipitation or when there is a local forecast of greater than 40% chance of precipitation within 8 hours of application time in the vicinity of the landfill.

(11) Spray applied Cementitious products

(A) Such products shall not be applied when there is a local forecast of greater than 40% chance of precipitation within 8 hours of application time in the vicinity of the landfill.

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority Cited: Sections 40502, 41781.3, 43020, 43021, 43030 and 43103, Public Resources Code.  
Reference: Sections 40508, 42245, 43020 and 43021, Public Resources Code; and Title 40 Code of Federal

## Regulations Section 258.21.

## HISTORY

1. New section filed 11-5-97; operative 11-5-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 45).
  2. New subsections (b)(2)-(b)(2)(B), (b)(5)-(b)(7)(A) and (b)(9)-(b)(10)(B) filed 2-3-98; operative 2-3-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 6).
  3. Amendment of section and Note filed 5-24-2004; operative 7-23-2004 (Register 2004, No. 22).
- 27 CA ADC s 20690

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THE LOS ANGELES COUNTY SOLID WASTE FACILITIES HEARING BOARD

DECISION RE APPEAL BY THE NORTH VALLEY COALITION OF  
THE LOCAL ENFORCEMENT AGENCY'S APPROVAL OF THE AMENDMENT TO THE  
REPORT OF DISPOSAL SITE INFORMATION FOR THE SUNSHINE CANYON LANDFILL  
COUNTY EXTENSION - SWFP#19-AA-0853 TO ALLOW THE USE OF CONSTRUCTION  
AND DEMOLITION MATERIAL AS ALTERNATIVE DAILY COVER

FACTUAL BACKGROUND

A. On August 12, 2005, the Los Angeles County Department of Health Services, Solid Waste Management Program (the Local Enforcement Agency or LEA), pursuant to an application by Browning Ferris Industries (BFI), approved an amendment to the Report of Disposal Site Information (RDSI) for the Sunshine Canyon Landfill County Extension, SWFP#19-AA-0853 (Landfill), to add the use of processed Construction and Demolition materials (C&D) as an approved Alternative Daily Cover (ADC).

B. On August 20, 2005, the North Valley Coalition (NVC), pursuant to Public Resources Code Section 44307, et seq., petitioned the LEA to hold a hearing to review the LEA's decision to approve the amendment to the RDSI for the Landfill to permit the use of C&D as ADC. Section 44307 of the Public Resources Code provides, in pertinent part, as follows:

"The enforcement agency shall also hold a hearing upon a petition to the enforcement agency from any person requesting the enforcement agency to review an alleged failure of the agency to act as required by law or regulation."

C. On October 11, 2005, the Los Angeles County Solid Waste Facilities Hearing Board (Hearing Board) conducted a hearing to review the LEA's approval of the amendment to the RDSI for the Landfill. The hearing was continued to and concluded on December 14, 2005. Representatives of the LEA, BFI and the NVC participated in the hearing and offered written and oral comments, and other information on the issues, to the Hearing Board.

D. The written materials considered by the Hearing Board in this matter are as follows:

1. A package submitted entitled Solid Waste Facilities Hearing Board October 11, 2005, North Valley Coalition Appeal and Response to Documentation;
2. A binder submitted entitled Appeal Hearing for Approval of the Use of Construction and Demolition Material as ADC at Sunshine Canyon Landfill;
3. An agenda package submitted entitled Solid Waste Facilities Hearing Board October 11, 2005 Agenda;
4. Copy of the current facility Solid Waste Facility Permit;



5. A copy of the finding of conformance granted to the facility by the L.A. County Solid Waste Management Committee/Integrated Waste Management Task Force;
6. A copy of the current facility CUP granted by the County Board of Supervisors/Regional Planning Commission;
7. A copy of the current facility RDSI;
8. A document of proposed revisions to the RDSI;
9. A double-sided, single-paged document provided by the Department of Public Works entitled Historical Disposal Summary Reports Beneficial Use Report by Facility for Sunshine Canyon Landfill for the entire calendar year of 2004 and the first half of the calendar year of 2005;
10. Facility Waste Plan Conformance Agreement, Waste Plan Conformance Agreement;
11. Copy of the CCR Title 27 § 21675;
12. Initial Study and proposed Negative Declaration for the approval, adoption and implementation of regulations for the use of alternative daily cover at municipal solid waste landfills;
13. Letter dated October 10, 2005, from Sharon Rubalcava of Weston Benshoof Rochefort Rubalcava MacCuish, LLP to Chairman Mike Mohajer and Commissioners Clark and Bittenson regarding Appeal Hearing for Approval of Use of the Construction and Demolition Material as Alternative Daily Cover at the Sunshine Canyon Landfill;
14. Letter dated November 30, 2005, from North Valley Coalition to Ken Murray, Chief Environmental Health Specialist, County of Los Angeles Department of Health Services regarding Solid Waste Facilities Hearing Board, October 11, 2005, and Appeal Hearing for Approval of Use of the Construction and Demolition Material as Alternative Daily Cover at the Sunshine Canyon Landfill;
15. Letter dated November 30, 2005, from Sharon Rubalcava of Weston Benshoof Rochefort Rubalcava MacCuish, LLP to Grace Chang of County of Los Angeles, Office of the County Counsel, regarding Appeal Hearing for Approval of Use of the Construction and Demolition Material as Alternative Daily Cover at the Sunshine Canyon Landfill; and
16. Letter dated December 2, 2005, from Kelly T. Smith of The Smith Firm to Chairman Mike Mohajer and Commissioners Clark and Bittenson regarding Appeal Hearing for Approval of Use of the Construction and Demolition Material as Alternative Daily Cover at the Sunshine Canyon Landfill.

E. Additionally, the Hearing Board requested information from the LEA regarding how the most recent traffic analysis, prepared in connection with a new Conditional Use Permit being considered for the Landfill, compared with the traffic analysis prepared in connection with the original EIR for the Landfill and whether the newer traffic analysis had an impact on the daily amount of materials delivered to the Landfill for beneficial use and/or disposal. However, the

LEA failed to provide any information in response to this request.

### STATEMENT OF DECISION

After consideration of the written and oral comments and other information offered by the LEA, BFI and the NVC, the Hearing Board, by a vote of two to one (Chairman Mohajer dissenting), hereby issues its decision as follows:

The Hearing Board finds no failure on the part of the LEA to act as required by law or regulation, in this matter. The LEA's approval of the amendment to the RDSI complied with the applicable laws and regulations.

The factual and legal basis for the Hearing Board's decision is as follows:

1. Section 21665 of Title 27 of the California Code of Regulations, subsection (c), provides that, "The EA may approve and file [an] amendment to the [RDSI] without revising the permit if all of the following criteria are met:

(1) the proposed change is consistent with all applicable certified and/or adopted CEQA documents, or has been determined by the EA that the change would not create any adverse environmental impacts and is exempt from the requirements of CEQA;

(2) the EA has deemed the proposed change acceptable and consistent with, but not limited to, state minimum standards pursuant to [Chapter 3 of Subdivision 1 of Division 2 of Title 27, sections 20180 through 21430] or applicable minimum standards in Title 14 (commencing with s17200), and including financial assurances and operating liability criteria pursuant to Chapter 6 of this subdivision if applicable; and

(3) the changes do not conflict with the terms and conditions in the current SWFP."

2. The use of C&D materials as ADC at the Landfill is consistent with the Environmental Impact Report, certified by the Los Angeles County Board of Supervisors, in connection with the issuance of the Conditional Use Permit and the Solid Waste Facilities Permit for the Landfill. The EIR specifically discussed the reuse of recycled waste materials, including inorganic materials, in the daily operations of the Landfill, including landfill cover supplement.

3. The use of C&D materials as ADC at the Landfill is consistent with the state minimum standards contained in Section 20690 of Chapter 3 of Subdivision 1 of Division 2 of Title 27. As provided for in Section 20690, C&D material is approved for use as ADC:

"All types of ADC must be approved by the EA in writing prior to use at solid waste landfills as consistent with Title 27, California Code of Regulations, s21570 through s21686. Proposed uses of alternative daily cover materials not specified below shall be subject to site specific demonstration projects approved by the EA with concurrence by the CIWMB to establish suitability as daily cover. . . Site specific demonstration projects are not required for the following materials used as specified and in accordance with subdivision (a) of this section.

. . .

(9) Processed Construction and Demolition Wastes and Materials."

4. The addition of C&D as an approved ADC for the Landfill does not conflict with any term or condition in the Solid Waste Facilities Permit for the Landfill. Solid Waste Facility Permit #19-AA-0853 does not include any term or condition which would prohibit the use of C&D materials as ADC.

Dated: December 19, 2005

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M. Michael Mohajer, P.E., Chair

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Margaret Clark, Commissioner

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Leslie N. Bittenson, Commissioner

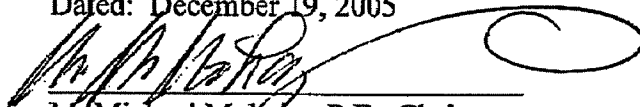
"All types of ADC must be approved by the EA in writing prior to use at solid waste landfills as consistent with Title 27, California Code of Regulations, s21570 through s21686. Proposed uses of alternative daily cover materials not specified below shall be subject to site specific demonstration projects approved by the EA with concurrence by the CIWMB to establish suitability as daily cover. . . Site specific demonstration projects are not required for the following materials used as specified and in accordance with subdivision (a) of this section.

...

(9) Processed Construction and Demolition Wastes and Materials."

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Dated: December 19, 2005

  
\_\_\_\_\_  
M. Michael Mohajer, P.E., Chair

\_\_\_\_\_  
Margaret Clark, Commissioner

\_\_\_\_\_  
Leslie N. Bittenson, Commissioner

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Dated: December 19, 2005

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M. Michael Mohajer, P.E., Chair

*Margaret Clark*  
Margaret Clark, Commissioner

---

Leslie N. Bittenson, Commissioner

HOA.339046.1

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...

(9) Processed Construction and Demolition Wastes and Materials."

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Dated: December 19, 2005

\_\_\_\_\_  
M. Michael Mohajer, P.E., Chair

\_\_\_\_\_  
Margaret Clark, Commissioner

  
\_\_\_\_\_  
Leslie N. Bittenson, Commissioner

HOA.339046.1



COUNTY OF LOS ANGELES  
DEPARTMENT OF HEALTH SERVICES  
**Public Health**

THOMAS L. GARTHWAITE, M.D.  
Director of Health Services and Chief Medical Officer

JONATHAN E. FIELDING, M.D., M.P.H.  
Director of Public Health and Health Officer

**Environmental Health**  
ARTURO AGUIRRE, R.E.H.S., M.A.  
Director of Environmental Health

**Bureau of Environmental Protection**  
**Solid Waste Management Program/L.A. County LEA**  
5050 Commerce Drive Baldwin Park, California 91706-1423  
TEL (626) 430-5540 • FAX (626) 813-3022  
[www.lapublichealth.org/eh](http://www.lapublichealth.org/eh)



**BOARD OF SUPERVISORS**

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First District

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Third District

**Don Knabe**  
Fourth District

**Michael D. Antonovich**  
Fifth District

**August 18, 2005**

Mark DeBie, Branch Manager  
Permitting and Inspections Branch  
California Integrated Waste Management Board  
Cal-EPA Bldg.  
1001 "I" Street  
P.O. Box 4025  
Sacramento, CA 95812-4025

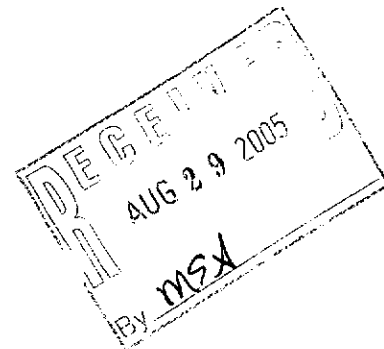
Attn: William Marciniak

Dear Mr. DeBie,

**REPORT OF DISPOSAL SITE INFORMATION (RDSI) AMENDMENT  
APPLICATION, SUNSHINE CANYON LANDFILL COUNTY EXTENSION  
SWFP#19-AA-0853**

The Solid Waste Management Program has accepted an amendment to the Report of Disposal Site Information (RDSI) for the subject facility. The amendment package was re-submitted to our office on August 3, 2005 and includes a RDSI amendment application and pages titled "ALTERNATIVE DAILY COVER(S)", and the Landfill Capacity Survey Results which includes a CADD data file. This office has reviewed the facility operator's Alternative Daily Cover(s) procedures as described in the amendment package and has determined the following.

1. The amendment is consistent with Environmental Impact Report, State Clearing-house No. 897120, approved by the Los Angeles Board of Supervisors on November 30, 1993 for the subject property.



017-A

Mr. Mark DeBie  
August 18, 2005  
Page 2

2. The amendment is acceptable and consistent with State Minimum Standards and Financial Assurances and Operating Liability criteria required by Title 27 of the California Code of Regulations.
3. The amendment is consistent with the terms and conditions of the current SWFP for the subject property.

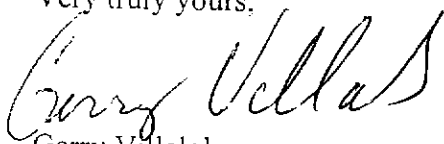
The use of processed Construction and Demolition (C&D) materials has been added as an approved Alternative Daily Cover (ADC) so long as it complies with the requirements as set forth in Title 27 California Code of Regulations (CCR) Section 20680-Daily Cover and Section 20690(9)-Alternative Daily Cover.

If it is determined by the Enforcement Agency (EA) that the use of ADC is not meeting the requirements of these sections, enforcement action may include, but not limited to the suspension of ADC as daily cover pursuant to 27CCR Section 20690(a)(4).

A copy of the amendment package is included as an attachment to this letter. The attached pages (16.0, 16.1, 16.2, 16.3a) should be placed in the current RDSI. Also included is the CADD data file.

If you have any questions, please contact me at (818) 833-6523

Very truly yours,



Gerry Villalobos  
Environmental Health Specialist IV

- c: Los Angeles Regional Water Quality Control Board  
Los Angeles County Department of Regional Planning  
file: SWMP



APPLICATION FOR SOLID WASTE FACILITY PERMIT/WASTE DISCHARGE REQUIREMENTS

CIWMB E-1-77 (Rev. 8-04)

NOTE: This form has been developed for multiple uses. It is the transmittal sheet for documents required to be submitted to the appropriate agency.  
Please refer to the attached instructions for definitions of terms and for completing this application form in a complete and correct manner.

FOR OFFICIAL USE ONLY

SWIS NUMBER: <u>19-AA-0853</u>	FILING FEE:	RECEIPT NUMBER:	DATE RECEIVED: <u>8-3-2005</u>
DATE ACCEPTED: <u>8-12-2005</u>	DATE REJECTED: <u>8/12/05</u>	ACCEPTANCE DATE OF INCOMPLETE APPLICATION:	DATE DUE:

Part 1. GENERAL INFORMATION

A. ENFORCEMENT AGENCY:  County of Los Angeles Department of Health Services	B. COUNTY:  Los Angeles
C. TYPE OF APPLICATION (Check one box only):	

- |  |   |
|--|---|
| <input type="checkbox"/> 1. NEW SWFP and/or WDRS         | <input type="checkbox"/> 4. PERMIT REVIEW                       |
| <input type="checkbox"/> 2. REVISION OF SWFP and/or WDRS | <input checked="" type="checkbox"/> 5. AMENDMENT OF APPLICATION |
| <input type="checkbox"/> 3. EXEMPTION and/or WAIVER      | <input type="checkbox"/> 6. RFI/ROWD/JTD AMENDMENTS             |

Part 2. FACILITY DESCRIPTION

A. NAME OF FACILITY:  
  
Sunshine Canyon Sanitary Landfill Extension

B. LOCATION OF FACILITY:

1. PHYSICAL ADDRESS OR LOCATION AND ZIP CODE:  
  
14747 San Fernando Road, Sylmar, CA 91342-1091

2. LATITUDE AND LONGITUDE:  
LAT 34 19 45 LONG 118 30 30

3. LEGAL DESCRIPTION OF PERMITTED BOUNDARY BY SECTION, TOWNSHIP, RANGE, BASE, AND MERIDIAN, IF SURVEYED:

Section 23, 24, 25, 26, T3N, R16W, SB B&M Assessors Parcel Number 2601-011-010, Tract 10422, Lot 9

C. TYPE OF ACTIVITY: (Check applicable boxes):

- |  |  |   |
|--|--|---|
| <input checked="" type="checkbox"/> 1. DISPOSAL<br>a. TYPE: <u>Municipal Solid Waste</u> | <input type="checkbox"/> 3. TRANSFORMATION               | <input type="checkbox"/> 5. OTHER (describe): |
| <input type="checkbox"/> 2. COMPOSTING<br>a. TYPE: _____                                 | <input type="checkbox"/> 4. TRANSFER/PROCESSING FACILITY |   |
- ☐ CHECK HERE IF RECYCLABLE MATERIALS ARE RECOVERED PRIOR TO TRANSFER/PROCESSING.

D. CONFORMANCE FINDING INFORMATION (CIWMP):

- ☒ 1. FACILITY IS IDENTIFIED IN (Check one):
- |   |                                   |                  |
|---|-----------------------------------|------------------|
| <input checked="" type="checkbox"/> SITING ELEMENT  | DATE OF DOCUMENT <u>21-Sep-04</u> | PAGE # <u>30</u> |
| <input type="checkbox"/> NONDISPOSAL FACILITY ELEME | DATE OF DOCUMENT _____            | PAGE # _____     |
- ☐ 2. FACILITY IS NOT REQUIRED TO BE IDENTIFIED IN SITING ELEMENT OR NONDISPOSAL FACILITY ELEMENT

E. TYPE OF PERMITTED WASTES TO BE RECEIVED: (Check applicable boxes):

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> 1. AGRICULTURAL   | <input checked="" type="checkbox"/> 6. CONSTRUCTION/DEMOLITION | <input type="checkbox"/> 11. LIQUIDS                                |
| <input type="checkbox"/> 2. ASBESTOS <input type="checkbox"/> Friable <input type="checkbox"/> Non-friable | <input type="checkbox"/> 7. CONTAMINATED SOILS                 | <input checked="" type="checkbox"/> 12. MIXED/MUNICIPAL SOLID WASTE |
| <input type="checkbox"/> 3. ASH  | <input type="checkbox"/> 8. DEAD ANIMALS                       | <input type="checkbox"/> 13. SEWAGE SLUDGE                          |
| <input type="checkbox"/> 4. AUTO SHREDDER  | <input checked="" type="checkbox"/> 9. INDUSTRIAL              | <input type="checkbox"/> 14. TIRES                                  |
|  | <input checked="" type="checkbox"/> 10. INERT                  | <input type="checkbox"/> 15. OTHER (describe):                      |
| <input checked="" type="checkbox"/> 5. COMPOSTABLE MATERIAL (describe): <u>Green waste</u>                 |  |   |

**A. PROPOSED CHANGE (Check applicable box(es)):**

☐ 1. DESIGN (describe):

☒ 2. OPERATION (describe):

Processed Construction and Demolition Wastes and Material for Alternative Daily Cover

☐ 3. OWNER, OPERATOR, ADDRESS, AND/OR FACILITY NAME CHANGE (describe):

☐ 4. OTHER (describe):

**B. FACILITY INFORMATION:**

**1. INFORMATION APPLICABLE TO ALL FACILITIES:**

a. PEAK DAILY TONNAGE OR CUBIC YARDS

9,000 TPD

1) DISPOSAL/TRANSFER (unit)

6,600 TPD

2) OTHER (unit)

2,400 TPD

b. DAILY DESIGN TONNAGE (TPD)

17,500

c. FACILITY SIZE (acres)

542

d. PEAK TRAFFIC VOLUME PER DAY (vpd)

5,565 (2,782.5 inbound/2,782.5 outbound)

e. DAYS AND HOURS OF OPERATION

Mon-Sat: 6 AM - 6 PM

**2. ADDITIONAL INFO. REQUIRED FOR COMPOSTING FACILITIES ONLY:**

a. SITE STORAGE CAPACITY (cu yds)

Not Applicable

**3. ADDITIONAL INFORMATION REQUIRED FOR LANDFILLS ONLY:**

a. AVERAGE DAILY TONNAGE (TPD)

6,000 / 36,000

b. SITE CAPACITY CURRENTLY PERMITTED (Airspace) (cu yds)

24,870,000

c. SITE CAPACITY PROPOSED (Airspace) (cu yds)

24,870,000

d. SITE CAPACITY USED TO DATE (Airspace) (cu yds)

18,775,000

e. SITE CAPACITY REMAINING (Airspace) (cu yds)

6,095,000

f. DATE OF CAPACITY INFORMATION (Date) (See instructions):

1/12/2005

g. LAST PHYSICAL SITE SURVEY (Date)

Aug-05

h. ESTIMATED CLOSURE DATE (month and year)

January 2009 based on anticipated lower tonnage after City Opening

i. DISPOSAL FOOT PRINT (acres)

129.3

j. SITE CAPACITY PLANNED (cu yds)

24,870,000

k. 1. (i) IN-PLACE WASTE DENSITY (lbs of waste per cu yd of waste)

AND

(ii) WASTE-TO-COVER RATIO (Estimated) (v:v)

OR

2. AIRSPACE UTILIZATION FACTOR (tons of waste per cu yd of landfill airspace)

0.65

**Part 4. SOURCE OF WATER SUPPLY (Check applicable boxes)**

☒ A. MUNICIPAL OR UTILITY SERVICE:

Los Angeles Department of Water and Power: 111 N. Hope St. Los Angeles, CA 90030

☐ B. INDIVIDUAL WELLS:

Metropolitan Water District: 700 Alameda St. Los Angeles, CA 90012

☐ C. SURFACE SUPPLY:

1. NAME OF STREAM, LAKE, ETC.:

2. TYPE OF WATER RIGHTS:

☐ RIPARIAN

☐ APPROPRIATION

3. STATE PERMIT OR LICENSE NUMBER, IF APPLICABLE:

**Part 5. COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)** (Check applicable boxes)

A. CHECK BOXES IF ENVIRONMENTAL DOCUMENT WAS OR WILL BE PREPARED FOR THIS PROJECT AND PROVIDE THE STATE CLEARINGHOUSE NUMBER (SCH#):

- ☒ ENVIRONMENTAL IMPACT REPORT (EIR) SCH# 89071210
- ☐ NEGATIVE DECLARATION (ND)/MITIGATED NEGATIVE DECLARATION (MND) SCH# \_\_\_\_\_
- ☐ ADDENDUM TO (Identify environmental document) \_\_\_\_\_ SCH# \_\_\_\_\_

B. IF ENVIRONMENTAL DOCUMENT(S) WAS NOT PREPARED, PLEASE PROVIDE THE FOLLOWING INFORMATION:

- ☐ CATEGORICAL/STATUTORY EXEMPTION (CE/SE)  
EXEMPTION TYPE \_\_\_\_\_

GUIDELINE # \_\_\_\_\_

**Part 6. LIST OF ATTACHMENTS** (Fill in the date for each document checked)

A. REQUIRED WITH ALL APPLICATION SUBMITTALS:

- ☒ RFI/ITD RFI 8/16/1991 (Original)
- ☒ LOCAL USE/PLANNING PERMITS Case #86312 (S) 2/19/91: reapproved
- ☒ LOCATION MAP 1/12/2005
- ☐ MITIGATION MONITORING IMPLEMENTATION SCHEDULE \_\_\_\_\_

☒ ENVIRONMENTAL DOCUMENT(S):

x EIR 11/30/1993

☐ MND/ND \_\_\_\_\_

☐ EXEMPTION \_\_\_\_\_

☐ ADDENDUM \_\_\_\_\_

B. ADDITIONAL REQUIRED DOCUMENTS FOR LANDFILLS ONLY:

- ☒ OPERATING LIABILITY FINANCIAL MECHANISM Bond # PEC000483201 8/1/2005
- ☒ CLOSURE/POST CLOSURE MAINTENANCE PLAN
- ☐ PRELIMINARY 3/21/2001
- ☐ FINAL \_\_\_\_\_

☒ FINANCIAL RESPONSIBILITY DOCUMENTATION Bond No. 104256401 7/19/2005

☒ LANDFILL CAPACITY SURVEY RESULTS (see instructions) see attached, August, 2005

C. IF APPLICABLE:

- ☐ REPORT OF WASTE DISCHARGE \_\_\_\_\_
- ☐ CONTRACT AGREEMENTS \_\_\_\_\_
- ☐ STORMWATER PERMIT APPLICATION \_\_\_\_\_
- ☐ NPDES PERMIT APPLICATION \_\_\_\_\_
- ☐ OTHER \_\_\_\_\_
- ☐ DEPT. OF HEALTH SERVICES PERMIT \_\_\_\_\_
- ☐ SWAT (Air and water) \_\_\_\_\_
- ☐ WETLANDS PERMITS \_\_\_\_\_
- ☐ VERIFICATION OF FIRE DISTRICT COMPLIANCE \_\_\_\_\_

**Part 7. OWNER INFORMATION** (For disposal site, if operator is different from land owner, attach lease or other agreement)

TYPE OF BUSINESS:

- ☐ SOLE PROPRIETORSHIP ☐ PARTNERSHIP ☒ CORPORATION ☐ GOVERNMENT AGENCY

OWNER(S) OF LAND  
(Name):

Browning Ferris Industries of California, Inc.

ADDRESS, CITY, STATE, ZIP  
14747 San Fernando Road, Sylmar CA, 91342

SSN OR TAX ID #

95-2772010

TELEPHONE #:  
818-833-6500

FAX #:  
818-833-362-5484

E-MAIL ADDRESS:  
peter.chung@awin.com

CONTACT PERSON (Print Name):

Peter Chung

**Part 8. OPERATOR INFORMATION** (For disposal site, if operator is different from land owner, attach lease or other agreement)

**TYPE OF BUSINESS:**

☐ SOLE PROPRIETORSHIP

☐ PARTNERSHIP

☒ CORPORATION

☐ GOVERNMENT AGENCY

FACILITY OPERATOR(S)

(Name):

*Browning Ferris Industries of California, Inc.*

ADDRESS, CITY, STATE, ZIP

14747 San Fernando Road, Sylmar CA, 91342

SSN OR TAX ID #:

95-2772010

TELEPHONE #:

818-833-6500

FAX #:

818-833-362-5484

E-MAIL ADDRESS:

*peter.chung@awin.com*

CONTACT PERSON (Print Name):

*Peter Chung*

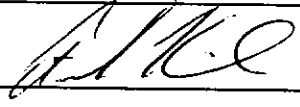
ADDRESS WHERE LEGAL NOTICE MAY BE SERVED:

**Part 9. SIGNATURE BLOCK**

**Owner:**

I certify under penalty of perjury that the information I provided for this application and for any attachments is true and accurate to the best of my knowledge and belief. I am aware that the operator intends to operate a solid waste facility at the site specified above pursuant to this application and understand that I may be responsible for the site should the operator fail to meet applicable requirements.

SIGNATURE (LAND OWNER OR AGENT):



PRINTED NAME:

*Frank Kiesler*

TITLE: *General Manager*

DATE: *8-3-2005*

**Operator:**

I certify under penalty of perjury that the information contained in this application and all attachments are true and accurate to the best of my knowledge and belief.

SIGNATURE (FACILITY OPERATOR OR AGENT):



*8-3-2005*

PRINTED NAME:

*Frank Kiesler*

TITLE: *General Manager*

DATE: *8-3-2005*

**Part 10. OTHER** (Attach additional sheets to explain any responses that need clarification).

### **Alternative Daily Cover(s)**

Alternative daily covers (ADC) will be used to conserve air space and native soils. In addition, the use of ADC will provide the operator an alternate method of covering the working face during inclement weather. Sunshine Canyon will use geosynthetic fabric panel products (blankets), processed construction and demolition (C&D) material, and processed green material and may use other approved ADC materials as necessary and as approved. Sunshine Canyon Landfill will utilize geosynthetic panels, processed green material, processed C&D material, and/or soil in any combination on any particular day. Other ADC materials not specifically approved in the regulations will be subject to site specific demonstration projects that are approved by the LEA to establish suitability as daily covers.

The blankets can be manufactured by several companies with the ones made by Southwestern Sales Company currently in use. The blankets are available in several sizes with 75 feet by 100 feet panel the most predominant size in use. Other sizes will be used depending upon the area to be covered and their ease in deployment. The blankets are made of polyethylene or polypropylene and typically about 70 mils in thickness. The blankets are ultraviolet stabilized, chemical resistant, nylon reinforced, and maintain a low permeability to provide maximum run-off. The blankets will be secured by sandbags, tires or soil and deployed either manually or with the use of heavy equipment.

Blankets will be removed from the working face at the beginning of the business day and inspected for rips or tears and repaired as necessary. Blankets will not be used if the landfill will be closed the following day. Native soils will be used exclusively as daily cover material on those days.

Processed green material used as ADC will be spread over the compacted refuse surface at the conclusion of the workday. The area of refuse receiving processed green material ADC will be completely covered in a compacted layer ranging in depth from a minimum of 6 inches to an average of 12 inches. Processed green material ADC utilized on the prior day will either be covered by additional refuse or receive soil daily cover by the conclusion of work on the following day. Processed green material ADC will not be used if the landfill will be closed the following day. Native soils will be used exclusively as daily cover material on those days.

Processed green material utilized for ADC will originate from either off site processor(s) or from an on site processing operation that may be established in the future. Regardless of the source, the processed green material ADC will be clean and free of refuse contamination and be processed (ground, shredded, screened, or by other means) to provide a compacted material free of open voids in the ADC cover.

Processed C&D material used as ADC will be spread over the compacted refuse surface at the conclusion of the workday. The area of refuse receiving processed C&D material ADC will be completely covered in a compacted layer ranging in depth from a minimum of 6 inches to a maximum of 18 inches (average depth of 12 inches). Processed C&D material ADC utilized on the prior day will either be covered by additional refuse or receive soil daily cover by the conclusion of work on the following day. Processed C&D material ADC will not be used if the landfill will be closed the following day. Native soils will be used exclusively as daily cover material on those days.

Processed C&D material utilized for ADC will originate from off site processor(s). Regardless of the source, the processed C&D material ADC will be processed prior to being applied to the working face. The material will be processed (ground, shredded, screened, or by other means) to provide a compacted material free of open voids in the ADC cover.

The following table summarizes the properties of the ADC material with the corresponding properties of soil that have been used at the site for daily cover:

**Comparison of Geosynthetic Blankets, Processed Green Material,  
Processed C&D Material to Daily Soil Cover**

Property	Daily Soil Cover	Synthetic Blankets	Processed Green Material	Processed Construction/Demolition Material
Hazardous or pathogenic nature of the cover	None	None	None	None
Resistance to heat and fire after application and compaction	On site soils do not burn or propagate flame and will have a tendency to smother fires	The blankets used will have a flame retardant coating applied	Naturally occurring moisture in the green material and the 1-day limitation in use will max. resistance to heat and fire.	C&D material is primarily comprised of inert materials such as soil, rock, brick, etc. The material has similar characteristics as soil.
Field permeability after application and compaction	Soil analysis indicate a permeability of $1.0 \times 10^{-5}$ at 90% compaction	Most blankets are water repellent; runoff will be controlled and managed accordingly	Like soil, processed green material will absorb water until the surface is saturated to cause lateral run-off.	Material will be compacted; and with soil component will shed water.
Compaction capability of the cover	Soils are conducive to compaction	Blankets will not be subject to compaction	Processed green material is conducive to compaction as noted in the applicable regulations.	C&D ADC is conducive to compaction as noted in the applicable regulations.
The ability of the cover to control the emergence, attraction, or harborage of vectors	Vectors can emerge from the waste; however, compacting the cover significantly reduces emergence and breeding	Control similar to soil; waste types and operation dictate severity of emergence and attraction	Similar performance as soil.	Control similar to soil; waste types and operation dictate severity of emergence and attraction

Geosynthetic blankets, processed C&D material, and processed green materials have been shown to fulfill the regulatory prescriptive standards for daily cover. The geosynthetic blankets, processed C&D material ADC, and processed green material ADC have been determined by the CIWMB to provide equivalent protections as soil cover while reducing the need for onsite soil usage. Vectors usually associated with landfill operations included flies and rodents. Previous studies, including the ADC geosynthetic blankets site specific demonstration project, indicate that rodents are not common to the facility and should not be considered a problem. ADCs will help minimize dust generated on site by reducing the number of truck trips per day for daily soil cover. Watering of the approaches to the working face and roadways will continue.

The use of soil during the rainy season is cumbersome and at times, difficult to apply. Using ADC blankets, processed C&D material, and/or processed green material will minimize this problem and improve operations near the working face by providing for a safer working environment. Additionally, the use of ADC in conjunction with other winterization activities will minimize the amount of soil "tracked" onto the main haul road.

Assessment of the ADC's performance will occur throughout its use on the landfill. Extensive use of geosynthetic blankets, processed C&D material, and processed green material as ADC throughout the State of California have demonstrated such use does not impact water quality.

The use of flame retardant blankets, the moisture retained in processed green material, and the inert nature of C&D material, reduces the potential for a fire occurring or spreading. If a fire were to occur, the following procedures would be followed:

- Isolate the burning materials from the other wastes
- Smother the burning waste with soil (a stockpile of soil will be kept near the working face at all times)
- Allow the waste pile to cool for 24 hours; inspect for smoldering
- Incorporate into the working face if safe, and;
- Report all incidents

Current and prior experiences with fires at the site have not indicated a problem. Soil will be used as daily cover on Saturdays or more frequently as required to maintain a safe and neat working environment. On those days when soil will be used as cover, operations staff will compact the soil.

In general, the waste types covered with the geosynthetic blankets, processed C&D material, and/or processed green material will be municipal solid waste, commercial and industrial waste. In most instances, the working face dimensions will be approximately 120,000 square feet. A back-up blanket will be kept onsite for those times when a blanket is replaced or out of service for repair.

#### Processed Green Material Calculation:

As noted previously, the working face area will be approximately 120,000 square feet. An area of this size, if completely covered with an average depth of 12 inches of processed green material ADC would consume approximately 1,600 tons per day of ADC material. This quantity is calculated as follows:

Active Face Area to be Covered	=	120,000 sq. ft.
Depth of ADC Material	=	12 in. (1 ft.)
Compacted ADC Material Density	=	700 lbs./cu. yd. (typical)
Quantity of ADC Material	=	$\frac{(120,000 \text{ sq.ft.}) \times (1 \text{ ft. depth}) \times (700 \text{ lbs./cu.yd.})}{(27 \text{ cu.ft./cu.yd.}) \times (2000 \text{ lbs./ton})}$
	=	1,555 tons (round up to approx. 1,600 tons)

Processed Construction and Demolition Material :

As noted previously, the working face area will be approximately 120,000 square feet. An area of this size, if completely covered with an average depth of 12 inches of processed C&D material ADC would consume approximately 3,100 tons per day of ADC material. This quantity is calculated as follows:

Active Face Area to be Covered	=	120,000 sq. ft.
Depth of ADC Material	=	12 in. (1 ft.)
Compacted ADC Material Density	=	1,398 lbs./cu. yd. (typical)
Quantity of ADC Material	=	$\frac{(120,000 \text{ sq.ft.}) \times (1 \text{ ft. depth}) \times (1,398 \text{ lbs./cu.yd.})}{(27 \text{ cu.ft./cu.yd.}) \times (2000 \text{ lbs./ton})}$
	=	3,107 tons (round down to approx. 3,100 tons)

It is highly unlikely that the operation will have access to this quantity of processed green material and/or C&D material ADC on a regular basis; therefore, the operation will also make use of geosynthetic blanket ADC and/or soil in combination with processed C&D material ADC. Further, limit of all Exempt Waste (approved ADC and Beneficial Use material including C&D, Greenwaste, Processed Asphalt and Concrete Rubble Material, etc.) cannot exceed 2,400 tons/day as prescribed by Solid Waste Facility Plan without explicit approval by the Department.

Portable litter fences will be installed down wind of the working face for secondary containment as required. During periods of inclement weather, when use of the ADC blankets, processed C&D material and processed green material is not practical, their use may be suspended and soil used as the daily cover.

Prior to utilization of other ADC materials, the landfill will notify the LEA in writing prior to the change.

Odor will be evaluated (qualitatively) if the site receives complaints that can be attributed to the use of the ADC blankets, processed C&D material or processed green material. Fires will be reported to the LEA within 24 hours of occurrence. Sunshine Canyon will continue its routine litter collection and abatement program. The working face will be maintained at the dimensions set forth above.



**THE SMITH FIRM**  
ATTORNEYS  
1541 CORPORATE WAY, SUITE 100  
SACRAMENTO, CA 95831  
(916) 442-2019  
WWW.THESMITHFIRM.COM

December 30, 2005

**BY HAND AND EMAIL**

California Integrated Waste Management Board  
Attn: Michael Bledsoe, Legal Branch  
1001 I Street  
Sacramento, CA 95814

**RE: APPEAL OF HEARING PANEL DECISION ON LOS ANGELES COUNTY LEA'S  
APPROVED USE OF MIXED-WASTE FINES AS ALTERNATIVE DAILY COVER  
AT THE SUNSHINE CANYON LANDFILL**

Dear Mr. Bledsoe:

I write representing the North Valley Coalition. Pursuant to Public Resources Code §45030, the Coalition hereby appeals to the California Integrated Waste Management Board ("CIWMB") the decision of the Los Angeles County Solid Waste Hearing Panel regarding the approval of materials used as daily cover by Browning Ferris Industries ("BFI") at the Sunshine Canyon landfill in Los Angeles County.

The question before the appeals board was simple: Did the Los Angeles County local enforcement agency ("LEA") properly approve "fines" from a mixed waste processing facility for use as alternative daily cover ("ADC") at the Sunshine Canyon Landfill?

A 2-1 decision by the hearing panel approved the LEA's decision.<sup>1</sup> But the Coalition appeals that decision, contending that: 1) the material approved does not meet the state's requirements for ADC use; 2) the LEA failed to require proper amendments to the landfill's Report of Disposal Site Information; 3) the LEA's action conflicted with requirements, including traffic studies, of the facility permit and environmental documentation; and 4) that unique site conditions mandate special consideration by the LEA..

Too many parties intentionally look the other way—including the LEA—when it comes to "alternative daily cover." The use of mixed waste fines as ADC clearly creates conditions for abuses. These abuses are important. Small particles of who-knows-what, carried by gale force winds off the surface of Sunshine Canyon to the nearby inhabitants and park users, raise real health concerns that the LEA's casual approval process fails to address.

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<sup>1</sup> The NVC formally protested appointment of one of the panel members before the hearing, contending that as a former employee of BFI, he was biased.

## **The evidence before the hearing panel**

The hearing panel met twice to hear the Coalition's appeal of the LEA's action, first on October 11, 2005 and then on December 14, 2005. A transcript of the first hearing was prepared, but not the second hearing. The hearing panel issued a written decision received by NVC's counsel on December 22, 2005.

The only evidence submitted by the LEA to support its decision its letter authorizing the use of the material as ADC. Although the hearing panel requested written substantiation for its decision from the LEA, none was provided.

The hearing panel chair, Mike Mohajer, voted to overturn the LEA decision for failure to justify its action, pointing to, among other things, inconsistencies with traffic study figures in permit conditions and environmental documentation, disposal figures and tonnages.

The testimony of BFI officials clearly indicates that the ADC materials were accepted from the Falcon Recovery Facility—a BFI mixed waste processing facility, according to CIWMB records. The mixed-waste materials run over a single screening process. The fines from that screen process are two sizes: the larger size is landfilled, the smaller size is spread over Sunshine Canyon Landfill as ADC.

Thus particle size is the only difference between garbage and ADC from the Falcon Recovery Facility's "C&D" processing.

Such material is not allowable as ADC. In adopting regulations providing for the use of "C&D" fines, the CIWMB clearly anticipated such abuse. The CIWMB should use this occasion to end it.

## **Regulation of ADC materials**

Materials allowed to be used as alternative daily cover are strictly spelled out in state regulations. The Los Angeles County LEA was sloppy in identifying the materials involved, a common regulatory problem.

For example, the Los Angeles County LEA was confused in 2003, when BFI brought "storm drain catch basin debris" to the landfill for ADC use. See Hearing Transcript of October 11, 2005, testimony of BFI's Sharon F. Rubalcava, page 51, lines 22-23.<sup>2</sup>

The LEA failed to understand the state regulation allowing green waste as ADC. The regulation is quite specific; 27 CCR §20690(a)(11)(3) prescribes the use of "Processed Green Material," as allowable ADC:

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<sup>2</sup> "Appeal Hearing for Approval of the Use of Construction and Demolition Material as Alternative Daily Cover at the Sunshine Canyon Landfill," Tuesday, October 11, 2005, 9:00 a.m. Further references will be to the "October 11 Hearing Transcript."

“(A) For the purposes of this section, processed green material means any plant material that is either separated at the point of generation, or separated at a centralized facility that employs methods to minimize contamination. Green material includes, but is not limited to, yard trimmings, untreated wood wastes, paper products, and natural fiber products. Green material does not include treated wood waste, mixed demolition or mixed construction debris, manure and plant waste from the food processing industry, alone or blended with soil...

(B) Green material used for alternative daily cover shall be processed prior to being applied to the working face unless the green material to be used as alternative daily cover already meets the grain size specifications...” (Emphasis added.)

The material wasn’t green waste; it wasn’t processed. Note that the regulations take close heed of the potential for contamination by other materials in those materials used as ADC.

The LEA’s mistake in 2003 is now recognized. State inspectors straightened the LEA out. October 11 Hearing Transcript, 52:19-23. Clearly, BFI had been consciously abusing the “green waste” definition of ADC. Hearing Transcript, October 11, 2005, 53:2-17.

Such abuse is not an isolated incident; it is prevalent throughout the landfill industry in California. Understanding why this is so requires understanding the motives of the dump operators.

### **History of ADC abuses**

With the advent of greater recycling activity, including composting programs, promoted by California’s 1989 Integrated Waste Management Act (Sher, AB 939), the use of “green waste” as daily landfill cover was increasingly promoted by the landfill industry as “alternative daily cover” (“ADC”).

This green-waste ADC was often self-hauled or municipally collected garden and lawn waste simply dumped in the landfill unprocessed, eliminating more expensive processing needed to create marketable compost.

The landfill companies urged the state to “count” such “alternative daily cover” toward the landfill disposal reductions required of cities and counties under AB 939.

The CIWMB initially developed regulations setting a cap on the percentage of ADC that could “count” toward the state recycling goals.

The landfill industry solicited the state legislature to allow all green-waste ADC to “count” toward the disposal reduction goals. In Assembly Bill 1647 (Bustamante), passed in 1996, these powerful interests got their way.

But since then they have found another benefit.

According to a 2002 investigation by the CIWMB, landfills are increasingly confusing garbage, ADC and other materials in accounting what's dumped.<sup>3</sup>

The result is a big savings to landfills and a big loss to the state, not only in the revenue used to police California garbage operations and landfills, but also to the state policy of encouraging less use of landfill space.

According to the CIWMB, the percentage of ADC dumped in California had grown to 15 percent of all disposal by the year 2000, or 4,968,485 tons—almost five million tons of what was disposed in California landfills.

According to the CIWMB investigation of the problem, some landfills claimed ADC to be as much as 54 percent of their disposal.

By calling landfilled materials “ADC,” the landfill industry evaded paying the state’s \$1.34 per ton “tipping fee” on disposed tonnage. That year the landfill industry avoided paying \$6.7 million to the state for such programs as school recycling education, landfill safety enforcement and pollution remediation.

It should be no surprise, therefore, that the complicated rules governing ADC were bent by BFI’s use of C&D/“storm drain catch basin debris” at Sunshine Canyon Landfill.

Indeed, BFI’s Falcon transfer facility apparently falsely reported the material shipped to Sunshine Canyon as ADC, as highlighted in the prior hearing. Hearing Transcript, October 11, 2005, 81:7-82:13, also 126:15-128:17. Sunshine Canyon joined in playing the “name game,” apparently calling the material ADC as a means to “dispose” of extra waste in the landfill, without it counting toward daily disposal limits.

### **Mixed waste fines are not ADC**

As with the 2003 approval, the LEA’s August, 2005 approval of Sunshine Canyon Landfill’s use of fines from the Falcon mixed waste processing facility fails to correspond to the strict requirements for ADC use.

Categorically exempting construction and demolition debris from the case-by-case evaluation otherwise required for ADC use, the state regulations specify which materials may be used in ADC from C&D waste:

“Processed construction and demolition wastes and materials used as alternative daily cover shall be restricted to the following materials: rock, concrete, brick, sand, soil, ceramics, cured asphalt, lumber and wood, wood products, roofing material, plastic pipe, plant material when commingled from construction work,

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<sup>3</sup> CIWMB Board Meeting, June 17-18, 2003, agenda item 13, [www.ciwmb.ca.gov/agendas/mtgdocs/2003/06/00011899.doc](http://www.ciwmb.ca.gov/agendas/mtgdocs/2003/06/00011899.doc)

and fines derived from processing the above materials.” 27 CCR §20690(b)(9)(B).

Note that nowhere in that discrete list of restricted materials does “mixed” C&D appear: “...rock, concrete, brick, sand, soil, ceramics, cured asphalt, lumber and wood, wood products, roofing material, plastic pipe, plant material when commingled from construction work, and fines...” Nothing there about “mixed” C&D.<sup>4</sup>

The reference in the regulation to “fines” means fines “derived from processing the above materials.” That is, those materials, already segregated, then processed, producing “fines,” may be used.

Instead here we have materials which are a literal “catch-all” of just about anything from BFI’s Falcon facility. There is nothing in the record to show that the LEA assured that the C&D materials were separated before being crushed together. Nothing was presented that assured that other materials were not processed over the same conveyor belt and the same screen.

### **The LEA failed to provide RDSI documentation of ADC contamination program**

The LEA failed to require that the Falcon Recovery Facility or the Sunshine Canyon Landfill complied with regulations intended to assure proper use of ADC.

The LEA failed to require compliance with 27 CCR 20690(11):

“The owner or operator shall implement a program described in the Report of Disposal Site Information as required by section 21600(b)(6) to minimize contamination of alternative daily cover with wastes not included within the individual alternative daily cover material types specified in subdivision (b) of this section and wastes that would conflict with the performance requirements of ¶(a)(2).”

The LEA provided no documentation at the review hearing indicating that BFI conformed to this requirement. Indeed, BFI officials stated that the Falcon Recovery Facility simply dumps materials on its tipping floor and sends them up a single conveyor line and over a single screen, which produces the “fines.”

Without assuring that non-approved materials are kept off the conveyor and screen, there is simply no way that the LEA can look at a pile of fines and determine their composition.

As evidenced in the hearing panel’s record, various other materials were included in waste used as ADC which were not categorically approved under the ADC regulations, including asbestos.

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<sup>4</sup> The reference of 27 CCR §20690(a)(11)(3), expressly prohibiting “mixed demolition or mixed construction debris,” also argues against any implied approval of mixed waste for ADC.

The common-sense knowledge of existence of asbestos in the mixed C&D wastestream is conceded by BFI. October 11 Hearing Transcript, 88:3-8. (“...people realize it does come in, so it’s inspected.”)

The presence of other materials in the C&D used at Sunshine Canyon is also clear from the record, where it is noted that on August 30, 2005 “several piles of construction demolition fines use[d] as ADC was observed to be contaminated with litter.” October 11 Hearing Transcript, 121:22-25.

Clearly, the record already provides substantial evidence that contamination is mixed in with the materials provided as ADC at the Sunshine Canyon Landfill.

Without showing protection from contamination, the LEA’s action to approve the use of mixed waste fines from the Falcon facility was not based on sufficient information.<sup>5</sup> Indeed, the information that is available provides patent proof that the mixed material does not qualify as ADC under the state’s regulations.

### **The LEA would improperly allow ADC “fines” from any facility**

Furthermore, the LEA’s decision would allow Sunshine Canyon Landfill to indiscriminately accept mixed waste “fines” from any facility. Any waste processing facility would be allowed to send fines to Sunshine Canyon Landfill, with or without a RDSI plan for preventing contamination of the ADC.

This is clearly a prescription for ADC abuse. “Fines” from waste processing are indistinguishable. They might come from hazardous waste screening, for all that the Los Angeles County LEA would know.

The LEA approval should have been limited to specific materials from specific facilities. Those facilities providing the ADC should be required to provide RDSI amendments which detail how the ADC is being produced, and how any contamination is kept out.

### **The LEA failed to consider site-specific wind factors**

A fundamental failure of the Los Angeles County LEA was its disregard of clear and substantial evidence of extremely high “Santa Ana” wind conditions at Sunshine Canyon Landfill. Those wind conditions militate site-specific considerations of the proposed ADC by the LEA. This consideration was not given, thereby violating the overarching mandate to the LEA for approving ADC, pursuant to 27 CCR 20690(a)(1):

“Alternative materials of alternative thickness for daily cover (other than at least six inches of earthen material) for municipal solid waste landfill units may be approved by the EA with concurrence by the CIWMB, if the owner or operator demonstrates that the alternative material and thickness control vectors, fires,

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<sup>5</sup> The LEA never saw inspection logs for the Falcon facility. Hearing Transcript, October 11, 2005, 106:6-8.

odors, blowing litter, and scavenging without presenting a threat to human health and the environment.” (Emphasis added.)

Even if the mixed waste fines were allowed categorically under 27 CCR 20690(b), they must still conform to the requirement of subdivision (a) of that section:

“Site specific demonstration projects are not required for the following materials used as specified and in accordance with subdivision (a) of this section.”  
(Emphasis added.)

The undisputed gale force winds over Sunshine Canyon create “a threat to human health and the environment” that must be at least evaluated by the LEA in its decision to allow “fines” composed of whatsoever to cover the landfill each day.<sup>6</sup>

## **Conclusion**

The prior abuses of ADC by the landfill operator are directly relevant here. It is too easy for BFI to start slipping non-approved materials into the “fines,” as it did in 2003, or for the Falcon facility, or any other facility, to change the stuff blended in with the material; and it is too easy for the LEA to again fail to notice.

Mixed waste “fines” are not ADC, and should not be allowed to be used as such by the Los Angeles County LEA. The CIWMB is urged vacate the LEA’s approval.

Respectfully submitted.

Sincerely,

KELLY T. SMITH

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<sup>6</sup> The LEA agrees with the Coalition that the area is very windy. October 11 Hearing Transcript, 105:6-7.



*in C. Lloyd, Ph.D.*  
*Secretary for*  
*Environmental*  
*Protection*

## California Integrated Waste Management Board

Rosario Marin, Chair  
1001 I Street • Sacramento, California 95814 • (916) 341-6000  
Mailing Address: P. O. Box 4025, Sacramento, CA 95812-4025  
[www.ciwmb.ca.gov](http://www.ciwmb.ca.gov)



Arnold Schwarzenegger  
Governor

APR 28 2005

Mr. Ken Murray, Chief  
County of Los Angeles  
Solid Waste Local Enforcement Agency  
Department of Health Services  
5050 Commerce Drive  
Baldwin Park, California 91706-1423



Subject: Transmittal of State Inspection Report  
Sunshine Canyon Sanitary Landfill Extension  
Facility File No. 19-AA-0853

Dear Mr. Murray:

Pursuant to Division 30, Public Resources Code (PRC) section 43220, staff of the California Integrated Waste Management Board (CIWMB) conducted a state inspection of the Sunshine Canyon Sanitary Landfill Extension on April 1, 2005, in conjunction with Gerry Villalobos and Pete Oda of your staff. Two copies of the State Inspection Report are enclosed, one copy is for your file records, and one for transmittal to the facility operator.

The facility was evaluated for compliance with applicable sections of the PRC and with Title 27, California Code of Regulations (27 CCR), Division 2, Chapter 3, Subchapter 4 – Criteria for Landfills and Disposal Sites, and Chapter 4 – Documentation and Reporting for Regulatory Tiers, Permits, WDRs, and Plans.

The following violations of 27 CCR were noted:

- 27 CCR 21640 – Review of Permits
- 27 CCR 21600 – Report of Disposal Site Information

The following areas of concern of 27 CCR were also noted:

- 27 CCR 20650 – Grading of Fill Surfaces
- 27 CCR 21830 – Litter Control

California Environmental Protection Agency

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Mr. Murray  
Page 2

Board staff appreciates your agency's diligence in pursuing compliance with the regulatory requirements. We are confident that you will work with the operator in addressing the violations and areas of concern identified in this report. Please track the operator's compliance progress in your monthly inspection reports.

Your Agency's cooperation with Board staff during the recent inspection is appreciated. As always, this office is available to assist you at any point in the compliance process. If you have any questions or comments, please call me at (916) 341-6337, or William Marciniak at (213) 620-2366.

Sincerely,

A handwritten signature in dark ink, appearing to read "Suzanne Hambleton". The signature is fluid and cursive, with the first name "Suzanne" being more prominent than the last name "Hambleton".

Suzanne Hambleton, Supervising IWMS  
Permitting and Inspection Branch, Region 4  
Permitting and Enforcement Division

Enclosure

**CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD  
STATE INSPECTION REPORT  
DISPOSAL SITE**

PAGE 1 OF 3

**FACILITY:**

Sunshine Canyon Sanitary Landfill Extension

**PERMITTED TONNAGE:**

6,600 Tons per Day

**SWIS #:**

19-AA-0853

**ACTUAL TONNAGE:**

5,703 Tons per Day Average\*

**INSPECTION DATE:**

April 1, 2005

**SITE TELEPHONE #:**

(818) 362-1567

**LOCATION:**

14747 San Fernando Road  
Sylmar, CA 91342

**REQUIRED COVER FREQUENCY:**

Daily

**OWNER:**

Browning-Ferris Industries of  
California, Inc. (BFI)

**PERMIT ISSUE DATE:**

November 17, 1994

**OPERATOR:**

Browning-Ferris Industries of  
California, Inc. (BFI)

**LAST PERMIT REVIEW:**

November 1999

**LEA:**

Los Angeles County  
Department of Health Services

**HAZARDOUS WASTES ACCEPTED:**

None

**INSPECTOR:**

William Marciniak

**ACCOMPANIED BY:**

Gerry Villalobos and Pete Oda, LEA

**ACREAGE:**

542 Acres

**GAS/LEACHATE CONTROLS:**

Yes/Yes

\*Average from January 1, 2004 to February 28, 2005.

**Comments**

The Sunshine Canyon Sanitary Landfill Extension started receiving waste in August 1996. There has been refuse disposal in Sunshine Canyon since 1958. The landfill has historically served unincorporated areas of Los Angeles County, San Fernando Valley communities, west Los Angeles areas, the City of Los Angeles and other neighboring cities. An eighteen month state inspection of the facility was conducted pursuant to Public Resources Code (PRC) Section 43220 in order to determine compliance with applicable sections of the PRC, Title 27 of the California Code of Regulations (27 CCR), and the terms and conditions of the landfill's Solid Waste Facility Permit (SWFP).

Waste Management Specialist 

### Violations

The following violations of 27 CCR, Chapter 4 – Documentation and Reporting for Regulatory Tiers, Permits, WDRs and Plans were noted:

#### 27 CCR 21640 – Review of Permits

This regulation requires that the operator submit an application for permit review no less than 150 days before the permit is due for review. Pursuant to 27 CCR 21675(b) the LEA is required to review the operator's submittal and prepare a permit review report. The permit review report is required at least once every five years. The last permit review report for this facility was submitted to the Board by the LEA in a letter dated November 9, 1999 therefore a permit review report was due by November 9, 2004. The operator was required to submit the application by June 12, 2004.

[Note: The operator indicated that they received no notice that the permit was due for review. The LEA is required pursuant to 27 CCR 21675(a) to give the operator notice of the five year review no less than 180 days before it is due.]

#### 27 CCR 21600 – Report of Disposal Site Information

This standard requires that the operator file amendments to the RDSI when changes occur in order to maintain the WFP. Tonnage records received from the operator from January 1, 2004 to February 28, 2005 indicate that an average of 264 tons of ADC material had been received for that period. This ADC tonnage average is believed to be a combination of greenwaste and construction/demolition materials tailings. The construction/demolition materials tailings are believed to be from the Falcon Refuse Center transfer station. [Note: In the Report of Facility Information for the Falcon Refuse Center transfer station it states that the C&D operation processed approximately 420 tons per day of C&D and wood material during the 10 month period February – November 2003 and that about 70% of the recovered material is shipped to landfills as ADC (C&D tailings).] During the inspection transfer vehicles were observed to be delivering C&D tailings and depositing the materials adjacent to the working face for later use as ADC. The operator had provided a RDSI update dated June 29, 2003 which identified geosynthetic fabric or panel products (blankets) and processed green materials as ADC types that would be used. Specifications are provided on the blankets and greenwaste in the RDSI update including the estimate of the quantity of the greenwaste which could be consumed based upon the typical working face dimensions, greenwaste density and allowed application rate.

The RDSI however does not identify or provide specifications on construction/demolition materials tailings as an ADC type which is being used nor does it provide an estimate of the quantity of construction/demolition materials tailings which could be consumed as ADC based upon the typical working face dimensions, tailing density, and allowed application rate.

In addition to the construction/demolition materials ADC tailings an estimate of other beneficial use materials also needs to be provided. It was also observed that for the period of January 1, 2004 to February 28, 2005 that an average of 193 tons of recyclables identified as asphalt/concrete also appear on the tonnage records. It is believed that this material is consumed on-site as beneficial use materials. The RDSI should identify the specific uses and provide an estimate of the tonnage of this material that is anticipated to be used.

Handwritten signature: *Handwritten signature*

[Note that new beneficial reuse and ADC regulations became effective on July 23, 2004. In 27 CCR 21600(b)(6) Cover and Beneficial Use – a new subsection (B) was added as well as a new section 27 CCR 20686 – Beneficial Reuse. The subsection for 27 CCR 21600(b)(6) in part reads, “(B) Alternative Daily Cover and Beneficial Use – Describe alternative daily cover and beneficial reuse waste types, processing methods, alternative processing or grain size specifications if applicable, operations methods, and applicable engineering, or other standard practices that will be used to ensure compliance with sections 20686 and 20690. Estimate the range in tons of these materials that are anticipated to be used, based on waste types, applicable cover to waste volume ratios, applicable density conversion factors, engineering specifications, methods to minimize contamination, or other pertinent information.” Subsections (a) of 27 CCR 20686 – Beneficial Reuse reads, “Beneficial reuse shall be restricted to those solid wastes appropriate for the specific use and in accordance with engineering, industry guidelines, or other standard practices specified in the RDSI as required by 27 CCR 21600(b)(6)”. Subsection (b) of 27 CCR 20686 reads, “Beneficial reuse shall be restricted to quantities of solid wastes no more than necessary to meet the minimum requirements of (a). Should the CIWMB determine that an owner or operator violated this standard, the owner or operator shall revise the applicable reports to reflect the overuse as disposal, and pay the required Board of Equalization (BOE) disposal tipping fees for the amount of overuse.”]

### Areas of Concern

The following areas of concern of 27 CCR, Division 2, Chapter 3, Subchapter 4 – CIWMB Criteria for Landfills and Disposal Sites (SMS) were noted during the inspection:

#### 27 CCR 20650 – Grading of Fill Surfaces

This standard requires that covered surfaces of the disposal area be graded to promote lateral runoff of precipitation and to prevent ponding. It was observed that the southeast area of the landfill where the wet weather deck had been located had not been repaired since the last rainfall to allow for lateral runoff of precipitation from future events. The area had numerous large tire depressions which would allow for considerable ponding. Equipment was observed working the far west of the damaged area toward the conclusion of the inspection.

#### 27 CCR 20830 – Litter Control

This standard requires that litter be controlled, routinely collected and disposed of properly. Controls are to prevent the accumulation or off-site migration of litter in quantities that create a nuisance. Litter was accumulated in and above the drainage channels and clinging to vegetation on the slopes along the east side of the landfill and was observed in the area that had been used as the wet weather deck. Litter was not observed off-site. A litter collection crew was observed working in the wet weather deck area as well as along the drainage channel during the inspection.

### Conclusion

Overall site operations appear satisfactory. The LEA should work with the operator on the submittal of the application for permit review and the RDSI amendment as well as address the areas of concern identified in this report. The cooperation of site personnel was greatly appreciated.